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ABSTRACT

On April 18, 1975, the House Subcommittee on Agricultural Labor heard testimony regarding H.R. 632 which would establish procedures for the Secretary of Labor to waive the child labor provisions of the 1938 Fair Labor Standards Act for employment in agriculture of children under 12 years of age. Several conditions would have to be met before the Secretary could grant such a waiver. The waiver itself would require that: employment be outside of school hours, the children be local residents commuting daily to work on the farm from their permanent residence, and the children not be employed for more than 13 weeks between June 1 and September 15 under the waiver and in accordance with other terms and conditions set by the Secretary to protect them. Testimony was heard from representatives of the: U.S. Department of Labor, Migrant Legal Action Program, National Child Labor Committee, Child Labor Branch of the Wage and Hour Division (Department of Labor), United Farm Workers, and American Federation of Labor-Congress of Industrial Organizations (AFL-CIO). (NQ)

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TO AUTHORIZE A LIMITED WAIVER OF THE CHILD LABOR PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 WITH RESPECT TO CERTAIN AGRICULTURAL HAND HARVEST LABORERS

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HEARING

BEFORE THE

SUBCOMMITTEE ON AGRICULTURAL LABOR

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 632

TO AUTHORIZE A LIMITED WAIVER OF THE CHILD LABOR PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 WITH RESPECT TO CERTAIN AGRICULTURAL HAND HARVEST LABORERS

HEARING HELD IN WASHINGTON, D.C.,
APRIL 18, 1975

Printed for the use of the Committee on Education and Labor
CARL D. PERKINS, *Chairman*

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TO AUTHORIZE A LIMITED WAIVER OF THE CHILD LABOR PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 WITH RESPECT TO CERTAIN AGRICULTURAL HAND HARVEST LABORERS

FRIDAY, APRIL 18, 1975

House of Representatives,
Subcommittee on Agricultural Labor,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met at [illegible] a.m., pursuant to notice, in room 2257, Rayburn House Office Building, Hon. William D. Ford (chairman of the subcommittee) presiding.

Members present: Representatives Ford, Blouin, Meeds, Sarasin, and Quie.

Staff present: Thomas R. Jolly, counsel; Patricia R. Morse, clerk; and Charles Sheerin, minority labor counsel.

Mr. Ford. We will call the committee to order. Mr. Sarasin and Mr. Quie are on their way. They have asked us to get started because we do have several people appearing this morning and we want to accommodate everybody who has been kind enough to agree to come to the committee.

Legislation being considered by the committee, H.R. 632 and H.R. 5329, introduced by Mr. Meeds, is designed to authorize a limited waiver of the child labor provisions of the Fair Labor Standards Act with respect to certain agricultural hand harvest laborers.

[Text of H.R. 632 follows:]

[H.R. 632, 94th Cong., 1st sess.]

A BILL To authorize a limited waiver of the child labor provisions of the Fair Labor Standards Act of 1938 with respect to certain agricultural hand harvest laborers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) an employer may apply to the Secretary of Labor for a waiver of the application of section 12 of the Fair Labor Standards Act of 1938 to the employment of an individual, who is less than twelve years of age, as a hand harvest laborer in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individual would be employed. The Secretary may grant such a waiver only if he finds that the application of such section—

(1) would cause severe economic disruption in the industry of the employer applying for the waiver, and

(2) the employment of the individual to whom the waiver would apply would not be deleterious to his health or well-being.

(b) Any waiver granted by the Secretary under subsection (a) shall require that—

(1) the individual employed under such waiver be employed outside of school hours for the school district where he is living while so employed,

(2) such individual while so employed commute daily from his permanent residence to the farm on which he is so employed, and

(3) such individual be employed (A) for not more than thirteen weeks under such waiver and (B) in accordance with such other terms and conditions as the Secretary shall prescribe for such individual's protection.

[Text of H.R. 5329 follows:]

[H.R. 5329, 94th Cong., 1st sess.]

A BILL To authorize a limited waiver of the child labor provisions of the Fair Labor Standards Act of 1938 with respect to certain agricultural hand harvest laborers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) an employer or group of employers may apply to the Secretary of Labor for a waiver of the application of section 12 of the Fair Labor Standards Act of 1938 to the employment of an individual, who is less than twelve years of age, as a hand harvest laborer in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individual would be employed. The Secretary may grant such a waiver only if he finds that the application of this section—

(1) would cause severe economic disruption in the industry of the employer applying for the waiver;

(2) the employment of the individual to whom the waiver would apply would not be deleterious to his health or well-being; and

(3) the industry of the employer to whom the waiver would apply has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for persons over sixteen years of age.

(b) Any waiver granted by the Secretary under subsection (a) shall require that—

(1) the individual employed under such waiver be employed outside of school hours for the school district where he is living while so employed;

(2) such individual while so employed commute daily from his permanent residence to the farm on which he is so employed; and

(3) such individual be employed (A) for not more than thirteen weeks in one calendar year between June 1 and September 15 under such waiver and (B) in accordance with such other terms and conditions as the Secretary shal prescribe for such individual's protection.

Mr. FORD. The first witness will be Bernard DeLury, Assistant Secretary for Employment Standards, U.S. Department of Labor, accompanied by Warren D. Landis, Acting Administrator, Wage and Hour Division, and Jack Karlin, Director, Division of Education and Research, Employment Standards Division, U.S. Department of Labor. I see you have some more people.

Mr. DELURY. Yes, Mr. Chairman, we have Mrs. Lucille Pinkett, the Chief of the Child Labor Branch, Wage and Hour Division; and we have Ms. Bobbye Spears, Associate Solicitor of Labor.

Mr. FORD. We have your prepared statement and without objection, it will be entered in the record at this point and you can proceed to add to it, elaborate on it or highlight it, as you wish.

STATEMENT OF BERNARD DeLURY, ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY WARREN D. LANDIS, ACTING ADMINISTRATOR, WAGE AND HOUR DIVISION; JACK KARLIN, DIRECTOR, DIVISION OF EVALUATION RESEARCH; MRS. LUCILLE PINKETT, CHIEF OF CHILD LABOR BRANCH, WAGE AND HOUR DIVISION; AND BOBBYE SPEARS, ASSOCIATE SOLICITOR OF LABOR

Mr. DELURY. With your permission, I will read my statement.

I am pleased to appear before you today to discuss some aspects of the child labor provisions of the Fair Labor Standards Act as amended last year. You have specifically asked the Department of Labor to express its views on H.R. 632, introduced by Congressman Meeds, which would establish procedures for the Secretary to waive the child labor provisions of the act for employment in agriculture of children under 12 years of age.

Mr. Meeds has recently introduced H.R. 5329 which is a modified version of the earlier bill. Although my views will relate to the latter bill, you may consider them to also apply to H.R. 632.

By way of background, since it was enacted in 1938, the Fair Labor Standards Act has treated the employment of children in agriculture differently than in other major industries. Originally, the child labor exemption made the child labor provisions of the act inapplicable to the employment of children of any age in agriculture during any period when the child was not legally required to attend school. State school-attendance laws weakened the provision, and the 1949 amendments to the act restricted the exemption to the employment of children in agriculture to employment outside of school hours for the school district where they live while so employed.

The 1966 amendments made a long overdue breakthrough by establishing procedures whereby children under 16 may not be exempted from the child labor provisions at any time in an occupation declared hazardous by the Secretary of Labor.

Finally, the 1974 amendments limited the exemption by adding requirements so that it will apply only if such employee (1) is 14 years of age or older, or (2) is 12 or 13, and is employed with the consent of his parent or person standing in place of his parent or on the same farm as such parent or person, or (3) is less than 12 years of age, and is employed on his parent's farm or is employed with his parent's consent on a farm not covered by the monetary provisions of the act under the 500 man-day exemption.

We believe that when the Congress took these steps, it was very deliberately dealing with a serious gap in the protective standards of the Fair Labor Standards Act. The unhealthy effects of child labor in agriculture have been documented. Modern agriculture is a high risk industry. These risks are not limited to heat, sun, dust and insects, or the strains caused by stooping and lifting. Children working in the fields, although not permitted to operate machinery, are still, at a particularly young age, subject to capricious behavior—a very dangerous situation when in an area of large complicated power-driven machinery.

The purpose of this hearing and the situation which H.R. 5329 was designed to deal with concerns that part of the child labor provisions added by the 1974 amendments which in effect prohibits the employment of children under 12 on farms covered by the monetary provisions of the Fair Labor Standards Act—that is, farms which used more than 500 man-days of agricultural labor during any quarter of the preceding calendar year. On September 13, 1974, a three-judge Federal Court in Oregon ruled in favor of the Secretary of Labor in the case of *Larry William Kelly et al.* v. *Peter J. Brennan.* The decision upholds the constitutionality of the child labor provisions of the Fair Labor Standards Amendments of 1974 as they pertain to this particular group of children. A preliminary restraining order of June 22, 1974, which enjoined the Secretary from enforcing in Oregon and Washington the provisions of section 12 of the Fair Labor Standards Act as they "pertain to the harvesting of strawberries by children under 12 years of age," was rescinded.

The plaintiffs contended that barring the employment of children under the age of 12 on large farms (i.e., those meeting the 500 man-day test for coverage) while permitting such employment on small farms violated the due process clause of the fifth amendment. The three-judge court concluded that plaintiff must "clearly and convincingly" prove that the challenged legislation is without "rational basis" and that they had failed to do so.

Basically, H.R. 5329 would establish procedures under which an employer or group of employers could apply for a waiver from the Secretary of Labor which would in effect permit the employment of children under 12 years of age employed in hand harvest labor in agriculture on a piece-rate basis. There are several conditions which would have to be met before the Secretary could grant a waiver, and the waiver itself would require that the employment be outside of school hours and that the children be local residents commuting daily to work on the farm from their permanent residence. The children could be employed for not more than 13 weeks between June 1 and September 15 under the waiver and in accordance with other terms and conditions set by the Secretary to protect them.

We oppose the enactment of this legislation. First, it would reverse the trend of congressional enactments to improve the protection of children over the years. You will recall that after most amendments to the Fair Labor Standards Act, similar concerns have been raised about new or higher standards. For example, a number of complaints from the farm community was generated when the 1949 amendments restricted permissible employment in agriculture to periods "outside of school hours for the school district where the child is living while employed."

Many bills were introduced shortly thereafter to reverse that legislation and permit harvesting of "agriculture commodities" during school hours. That amendment simply assured that farm employment by children would not interfere with their education, and the attempts to reverse it came to naught.

It is clear that H.R. 5329 would apply to the situation in Oregon and Washington which was aired in the *Kelly* v. *Brennan* court case, the employment of children under 12 years of age to hand harvest crops in those areas. It is often argued that enough older workers are not available. However, the Fair Labor Standards Act permits the employment of children 12 and 13 years of age with a parent's consent or on a farm where the parent is also employed, and 14 and 15 years old.

Moreover, unemployment is proportionately greater in Oregon and Washington than in most other States. For example, according to February data based on insured unemployment under State programs as a percent of covered employment, Washington State ranks sixth with North Carolina—excluding Puerto Rico—and Oregon ninth in terms of the highest rates of unemployment.

With respect to the national unemployment problem, I do not need to elaborate on the seriousness of the unemployment rates of teenagers throughout the country. In February, the seasonally adjusted unemployment rate for 16–19 year olds was almost 20 percent. Based on these data, we believe that growers can find an adequate supply of labor.

I would also point out that data prepared by the Employment Division of Oregon Department of Human Resources shows that children under 12 years of age accounted for 15 percent of the pickers in June 1972, and 1973, and about 12 percent in June 1974. With the labor pool available, this would appear to be a significant factor in harvesting strawberries.

Requests for waivers for the employment of local children under 12 who would come within the provisions of this bill might be expected from the following areas for harvesting the following crops—these are in addition to Oregon, Washington, Michigan, and Maine where most of the criticism of the new child labor provision occurred last year:

For example: Strawberries—western Kentucky, Louisiana, North Carolina, and Ohio.

Snap Beans and some types of lima beans—North Carolina, South Carolina, and the eastern shore of Maryland.

Tomatoes [fresh market-fancy pack]—south Florida, Ohio and Indiana.

Vegetables—where grown and hand harvested, for example, garden peas, carrots, and salads in the Rio Grande Valley.

In conclusion, let me say that we understand the need to provide growers with an adequate supply of labor during the harvest season when the pressure to harvest their crops is at a peak. We do not believe, however, with all due respect to the views of the backers of this legislation, that the employment of children under age 12 is the solution.

Mr. Chairman, my colleagues and I will be happy to answer any of your questions.

Mr. **Ford**. Thank you. Are there any other comments to be offered by members of your panel?

Mr. **DeLury**. No. I think we are together on this.

Mr. **Ford**. Thank you. I was quite surprised to find that I am suddenly being cast as a great friend of the Farm Bureau, an organization that has never agreed with me, I don't think, in my entire political career. There is a little emotion generated by this legislation. It has caused me to go back and do some rethinking on how we get to this kind of a situation.

Most of us have long and strong commitments to basic principles which were responsible for what we thought was some success last year in tightening up the child labor provisions of the Fair Labor Standards Act.

You will say—now, how can you do anything different than what you did last year which was in the right direction?

I suppose what has drawn most of my thoughts together on the "Meeds approach" is this represents the first time that I can recall where I had to start considering whether or not this kind of legislation is capable of a finite set of definitions that would sufficiently discriminate so that the basic protections that are intended for children can accommodate other seemingly worthy objectives that are suggested by those children and their parents and everyone else who testified out there in Washington.

I have to tell you very frankly that I was impressed by the overwhelming evidence presented by every segment of the community out there, expressing concern for their children in terms of what they perceive to be a deleterious result of acts passed for the protection of children in general, which is difficult for them to understand. So much so that I am sure you can understand the questions I asked up there were not received very warmly.

Perhaps we could talk about this, and maybe Mrs. Pinkett would be the most appropriate person. Am I not correct that our main concern when trying to legislate in this field is the patterns of the use of child labor that on their face have been presumably bad—interference with education, choice between education and working in the fields, in particular regard to migrant children who, in the past for the most part and unfortunately to a large degree today, nobody took any interest in whether they attended school or not?

They haven't been very well monitored by the school attendance officers and so on. Now, to what degree do we have in modern times a continuance of what we would consider to be an abuse of the child labor when we are dealing with an indigenous population—an in-place population? Where in the country do we still see this sort of thing happening?

The instance that I used in Washington which semed to soothe them was suckering tobacco in some of the Southern States, which seems to be something that small children used to do and which is pretty bad because it is during the school term.

Mrs. PINKETT. With respect to agriculture employment?

Mr. FORD. Yes.

Mrs. PINKETT. Well, within the last fiscal year—the first 6 months of this fiscal year we have found that 265 minors were employed in violation of the child labor provisions of the Fair Labor Standards Act in agriculture.

Mr. BLOUIN. Is that a nationwide figure?

Mrs. PINKETT. Yes.

Mr. FORD. Could you give me an idea of the kind of violations we are talking about?

Mrs. PINKETT. Most of them were under the age of 14.

Mr. DELURY. Mr. Chairman, we could supply additional information that we might not have here with us today.

Mr. FORD. I am not trying to nail you down, but we have only had the Labor Department picking up 265 violations over the last year—are they all different?

Mr. DELURY. That is a 6-month figure.

Mr. FORD. Can you tell us where and in what kind of agriculture these things are occurring?

Mrs. PINKETT. We would have to supply you that for the locality.

Mr. FORD. Can you tell us why it tends to be the under 14 and not the under 12 violation that is involved?

Mrs. PINKETT. We don't have the statistical data on the number—we don't have that breakdown for under 14. It is lumped together.

Mr. FORD. In other words, when you say under 14, some of these could be because they were actually under 12.

Mrs. PINKETT. Right.

Mr. Ford. So, we don't know statistically whether or where the 12-year-olds break because there are different characteristics involved in the violation of under 12 than under 14—whether that has any significant effect yet or not—do we?

Mrs. Pinkett. No; not at this point.

We are planning to refine this breakdown so we will have that data in the future reporting.

Mr. Ford. How long have you been in this field?

Mrs. Pinkett. In child labor? Since 1961, and with the Fair Labor Standards Act since 1948.

Mr. Ford. What is your own reaction to the effect of the changes in 1974? It would be unfair, I suppose, to ask you if you were satisfied that the Labor Department was vigorously enforcing the law.

Mrs. Pinkett. I think it was something that we looked and hoped for, for a long, long time. So, naturally, we welcomed the amendment.

Mr. Ford. All right. What I am trying to find out from your people over there is what happened to the law that I passed last year.

Mr. DeLury. Maybe I could help you on that one.

Mr. Ford. I would like to know what has happened since we passed this law. Has there been any increase in the size of the staff that you have over there to enforce the child labor provisions?

Mr. DeLury. Not on the child labor provisions end of it, but on the crewleader portion of the amendments that we work on. We have gone before the Senate just yesterday and asked for 19 more positions which would give us a total of 38 positions. Most of them are field positions. We do have a strategy for enforcement.

Mr. Ford. Did the Labor Department when we passed the child labor provisions of the Fair Labor Standards Act do anything about getting additional personnel to enforce the new provisions?

Mr. DeLury. We got additional personnel that would blanket the entire amendments—to the 1974 amendments. We picked up 150 additional personnel in the Wage and Hour Division which can be used to enforce child labor provisions. We don't know what the effect of those additional people are yet because, frankly, some of them are still coming aboard. Many of them are being trained, and a few of them are out on their own.

We can't feel the effects.

Mr. Ford. Now, the Labor Department was aware last year that there was a temporary restraining order in Washington and Oregon that was going to permit for at least that season the use of child labor under 12, in this particular type of harvesting up there. Did the Labor Department do anything to monitor that type of activity last summer—to see what, if any, harmful or bad practices were inherent in the use of that labor? You had a perfect laboratory situation. The entire rest of the country was theoretically not going to use 12-year-old labor any more, and you had two States with a concentration of this use in operation for at least 1 more year.

Did anybody go out there and take a look and see what was happening?

Mr. DeLury. I would like Mr. Karlin to respond.

Mr. Karlin. We had a request from the Senate Labor Committee to collect information from four States: Washington, Oregon, Michigan, and Maine. We had a request from the Senate Labor Subcommittee to collect information for four of the States involved.

We attempted to see whether there was any data available anywhere in Washington, and there were on the age composition on the labor force involved in strawberries, and beans, potatoes—that had been made.

We contacted the Department of Agriculture and asked them to collect the data for us. After they had tried and made some contacts in the field, they begged off because in most instances it seems that law prohibits the employment of children under 12. Anybody that admitted having anyone under 12 would be admitting that he was violating the law.

In Washington and Oregon, we did get information collected up in the State of Oregon. Washington, we were unable to, and we did get some information from the State of Maine—from the Potato Council and from the school system.

So, we do have information on the age breakdown of the strawberry pickers, showing us the data for the last several years, including 1974.

Mr. FORD. My understanding is that the Federal order exempted the entire States of Washington and Oregon, and one of the important characteristics of the testimony that we had out there was the difference in tradition and makeup of the agricultural harvesting force in western Washington, along the seacoast and inland in Washington, particularly the Yakima Valley. Would your statistics tell us anything about whether there is a distinct difference in child labor as used in one part of Washington for a particular type of work as distinguished from another part?

Mr. KARLIN. The only data that we have is data on the Yakima Valley.

Mr. FORD. Just in the one spot?

Mr. KARLIN. Yes; that is all.

Mr. FORD. That was in Oregon.

Mr. KARLIN. That was collected by the State Employment Security Division, Department of Human Resources—the State of Oregon.

Mr. FORD. Do you have the Washington figures?

Mr. KARLIN. No; we tried. We were not successful in getting any.

Mr. FORD. I am informed that the figures that we were given up there were not gathered by a governmental agency but were put together by growers.

Mr. KARLIN. We had our field personnel contact the growers, the association, the labor unions, and the colleges. We tried every source that we could possibly think of where such data might be generated. To generate new information, it would take at least 2 years. Neither the Department of Agriculture nor the Department of Commerce was willing to undertake the task, even though the Labor Department was willing to pay for it. They felt that they could not get it on a voluntary basis and we wrote and informed the Senate Labor Subcommittee that we were unable to get that information.

We could have personnel there to collect that information—that if the Department of Agriculture and the Bureau of Census was ordered to do it, we would be glad to compile and analyze the data, but we were in no position to collect it ourselves.

Mr. FORD. All right. Then, presumably, in the States of Washington and Oregon, because of that court order, none of the 265 violations that you are talking about came from those States for children under 12 because the under-12 provision was inoperative for the only time that they would have been employed last year.

Mr. KARLIN. On those particular crops.

Mr. FORD. So, we start off with the assumption that 275 are located someplace outside of those two States to the degree that any part of them are the under-12 violations.

Do you recall if any of them were in Michigan?

Mr. KARLIN. I am sure we could give you State breakdowns of the violations and what was involved.

Mr. FORD. I have been informed, outside of the record of this hearing, by someone who is a little upset with the way we do things in Michigan that there were none cited in our State. Yet you stated it as one of the four places that you are going to study and as one of the four places where it is most likely to happen.

Not only did you cite it in deciding with Mr. Dent's committee where you were going to make the study, but in your testimony today you mention Michigan as one of the places it could happen.

Mr. KARLIN. We were specifically asked to gather information for those four States by the Labor Subcommittee as well as for others. But, they did spell out those four States. Apparently there was some conflict in Michigan in connection with the harvesting of beans and strawberries.

Mr. FORD. You are going to submit then for the record the best breakdown you can for the 265 violations. Thank you.

Mr. Quie?

Mr. QUIE. I have no questions.

Mr. FORD. Mr. Meeds.

Mr. MEEDS. Thank you, Mr. Chairman. Mr. DeLury, as I understand from hearing your testimony, one of the major factors in your opposition to this legislation is that you feel other people will be displaced if the children under 12 are allowed to pick. Is that correct?

Mr. DELURY. That is right, but in addition to that, sir, we feel that——

Mr. MEEDS. I know. I will talk about additional things in a minute. But, that is one of the reasons, is that correct?

Mr. DELURY. Yes.

Mr. MEEDS. You are aware, are you not—I don't mean to be critical here—your testimony applies to H.R. 632?

Mr. DELURY. Both of them, yes.

Mr. MEEDS. Do you have a copy of H.R. 5329?

Mr. DELURY. Yes.

Mr. MEEDS. Would you look on page 2, between lines 8 and 12, and read that paragraph, please?

Mr. DELURY. Yes, sir. I am aware of that line.

Mr. MEEDS. So, that if the industry of the employer to whom the waiver would apply has traditionally and substantially employed individuals under 12 years of age without displacing substantial job opportunities for persons over 16 years of age——

Mr. DELURY. That is correct, and I am aware of this section here.

Mr. MEEDS. So, that if the tendency or the effect of hiring the 12-year-and-under people would displace substantial job opportunities for other persons over 16 years of age, it would be prohibited by this act.

Mr. DELURY. That is correct. I think the Labor Department's testimony here in opposition is that barring any specific breakdown of unemployment figures, we do show increasing trends for increasing unemployment for young people 16 to 19—upwards of 20 percent.

Mr. MEEDS. But, regardless of that factor, if this law—if this were to become law—H.R. 5329, just the way it is and it were enforced, it would prevent the very thing that you are concerned about. Isn't that correct?

Mr. DELURY. That is one of the things that we are concerned about.

Mr. MEEDS. That is what I am asking you about right now. That would prevent it, would it not? If it were enforced.

Mr. DELURY. Theoretically—if you have the power available.

Mr. MEEDS. The next question is the question that you raised about increasing unemployment, and I agree with you there is increasing unemployment. Are you aware of what the unemployment rate in the State of Washington is at this time?

Mr. DELURY. I couldn't quote it off the top of my head.

Mr. MEEDS. Well, I will tell you. It is about 12.7 percent statewide—less than that on the western side. More than that in some areas—like Skagit County would be right now probably 22 percent, and in Seattle—it would be maybe 8 to 8½ percent.

Statewide it is about 12.7 percent and that is pretty high.

Are you aware of what it was in June of 1971?

Mr. DELURY. No, sir.

Mr. MEEDS. Well, I will tell you what it was. It was 15.7 percent in June of 1971. Do you know what percentage of the strawberries were picked in Washington State with an unemployment rate of 15.7 percent by children under 12?

Mr. DELURY. I don't know.

Mr. MEEDS. Well, I will tell you that, too. Between 30 and 40 percent.

Do you know how many percent of the berries were picked last year when the unemployment rate in June was around 9 percent in the State of Washington?

Mr. DELURY. No, sir.

Mr. MEEDS. About the same percent—30 or 40. Now, does that tell you anything?

Mr. DELURY. From what you told me so far, sir, your unemployment rate has gone up and that would tell me that there is an availability of people to do the work.

Mr. MEEDS. I have told you that the unemployment rate right now is not as high as it was and it won't be in June of this year—it won't be as high as it was in June of 1971.

Are you aware that we suffered a very severe economic decline in Washington State much earlier than others?

Mr. DELURY. Yes, and in Seattle particularly.

Mr. MEEDS. The unemployment rate was higher in 1971 than what it is right now. Despite that high unemployment rate of over 15 percent, approximately 30 or 40 percent of the berries were picked by children under 12 years of age. When the unemployment rate went down to 9 percent as it was last summer, approximately the same amount of the berries were picked by children under the age of 12 years. Now, that at least indicates to me—perhaps it doesn't to you, sir—that traditionally children under the age of 12 years picked about the same amount of berries, regardless of the unemployment rate.

Would you say that this is a reasonable interpretation?

Mr. DeLury. Yes, I am following that, yes, sir.

Mr. Meeds. Thank you.

Mr. DeLury. Thank you.

Mr. Ford. Mr. Blouin?

Mr. Blouin. The only question, Mr. Chairman, that I might have and I am not sure you could supply the information, regarded those 265 violations. How many children did that involve?

Mrs. Pinkett. 265.

Mr. Blouin. You have a separate violation for each child involved?

Mrs. Pinkett. Yes.

Mr. Blouin. How many employers did that involve? Maybe I should direct it from the other way.

Mr. Landis. Yes, sir, I think that is what we should furnish you so that you could get the number of the investigations we made in agriculture and then you could get a better idea.

Mr. Blouin. Where did you key the beginning investigations on this? What part or region of the country did you start, or did you just—wherever you fell?

Mr. Landis. This was left up to the region. They are pretty much decentralized and they know their areas and when the crops are being harvested.

Mr. Blouin. Do you happen to know how many of these violations involved migrant families?

Mr. Landis. I don't know whether we could pinpoint that. We might be able to hazard a guess depending on the location and the kind of crop.

Mr. Blouin. Could you throw a ballpark guess? Half, two-thirds, a third?

Mr. Landis. No, but we could supply it. We would like to look at the whole data and give you——

Mr. DeLury. Mr. Blouin, we are not completely satisfied with the statistics we have, nor of the approach, as we tried to gather those statistics. We have a request in before the Senate side and will be up shortly on the House side for additional people in the crew leader part of the operations, and I make a public pledge here that we will try when we come up before this committee again to have more and better data available—try to provide those type of breakdowns because I think we do have some overlap between two acts.

We have a decentralized operation where working out of approximately 90 area offices across the country in the Wage and Hour Division, people there generally know what the problems are and we used the task force approach once before in North Carolina for that migrant stream area back about 2 years ago. We can do those type of things again, too, and we are going to do them with the additional personnel. So, we should have better data next time around. I admit right now it is not too good on the broad scope of things.

I think in the area of child labor violations, we ran about 18,000. Correct me if I am wrong; 18,300 child labor violations last year. Now, that is just not in agriculture. That is across the board, so we do have to pick out our share of the work on the agricultural part or industries to be covered.

Mr. Blouin. How soon do you think you could get that information to us?

Mr. DeLury. We have a good opportunity now with summer coming upon us very swiftly and an appropriations request concurrent with that approach—we should have some data at least by the fall.

I don't think we could have it much sooner than that.

Mr. Blouin. By the fall. Isn't there any way you can take those 265 cases and count them?

Mr. DeLury. On past data, yes. I was talking about new stuff.

We could have that up here within a week.

Mr. Landis. I can give you—one question you asked—the 265 minors illegally employed in the first 6 months of fiscal 1975 were on 64 farms.

Mr. Blouin. Where were they mainly located? Do you know what part of the country?

Mr. Landis. We will have to try to get that for you.

Mr. Blouin. You don't know if it was mainly west or south?

Mr. DeLury. The data that we have here doesn't show that but we could get it for you.

Mr. Blouin. Sixty-four farms. That is all, Mr. Chairman.

Well, I would be interested in knowing as an additional statistic how many of those 64 farms were corporate farms. You ought to be able to find that out—whether it is a corporate violation or proprietary.

Mr. Landis. I will see if we can get that.

We may be able to track the investigation reports. We can find it.

Mr. Ford. All right. Just let me ask you to consider something else while you are trying to get some figures for us. It would appear from what we have been told that you are talking about in one county alone, Skagit County, probably around 3,000 children under the age of 12 who were last year picking strawberries. That is the estimate—2,500 to 3,000. Can you tell us, any of you who have worked in this field, where we should look in the country to see anything comparable to this—where there might hundreds of thousands of children that are being used in agriculture now? We are trying to protect against something that is very serious in everyone's mind. Where should this committee look—besides Washington and Oregon—to find children under 12 working in the field.

Mr. Landis. We tried to get that information, sir.

Mr. Ford. I am not asking you to pin it down about the specifics of where you know it is happening. On the basis of your experience, where should we look to find it?

The only reason we know about that area up there is because of the reaction of the people and the very concentrated nature of it. And we know something about Maine, I guess, because of Mr. Hathaway. But, I have heard people say for example, that if this law were passed there would be wholesale use of children in California.

The only way that there could be wholesale use of children in California is if, in fact, it has been the customary practice in California, because they wouldn't qualify for the waiver otherwise.

Is there wholesale use of children in California?

Mrs. **Pinkett.** There is a California State law prohibiting that, and in that connection, there are several States that impose a minimum age of employment outside school hours. But, now, in the first part of your question that you are asking about where you might look for youngsters employed, I think we have the States of Maine, North Carolina, South Carolina, Maryland, Florida, and Ohio. In these particular States, they have no minimum age requirement for employment outside of school hours in agriculture.

Mr. **Ford.** What is the California law? 12 years old?

Mrs. **Pinkett.** It is 14 outside school hours and 12 during school vacation and regular school holidays. During school hours, it is 16—14 in certain circumstances.

Mr. **Ford.** Is that a flat prohibition or are there exemptions?

Mrs. **Pinkett.** There are probably exemptions—which we may have the complete breakdown on. This is essentially it. I think under certain circumstances sometimes it is the economic situation of the family, or maybe if the youngster is excused from school, but I don't have that definite data with me.

Mr. **DeLury.** Mr. Chairman, we have a list here the Wage and Hour Division has put together that gives various State laws—State by State breakdown if you would like to have this.

Mr. **Ford.** Without objection, we will put that in the record. We would like to use it for the balance of the hearing.

Thank you very much. I appreciate particularly your cooperation in coming on such short notice. I can appreciate the problems of trying to put the statistics together, but additional information as it will be provided will be helpful.

[The material referred to follows:]

STATE BY STATE CHILD LABOR LAWS

State	Crops	Age outside school hours	Age during school hours
Alabama	Cotton mechanized; potatoes, tomatoes (June-September) Corn, pecans, peanuts.	None	
Alaska		14	
Arizona	Cotton, grapes, citrus (Grapes—hand picked mid-June-July, citrus—hand picked year round, Cotton—mechanized).	None	14
Arkansas	Strawberries—late spring, Cotton—Mechanized	14	14
California		[1] 14	16/14
Oakland	Tomatoes—Mechanized, wine grapes, figs, peaches, oranges, almonds		
Kern and Ventura	Chili peppers, stoop, follow a machine, cabbage, strawberries August-September and spring, tomatoes—chili peppers—September-October.		
San Francisco	Lettuce, tomatoes, peppers, prunes, garlic, pears, grapes, strawberries		
Sacramento	Tomatoes, grapes, peaches, pears, prunes, potatoes, onions, garlic, almonds, walnuts (all mechanized except grapes in September.)		
Colorado		12	16/14
Denver	Cabbage, onions, peppers, beans, mustard, mechanized—Potatoes, some carrots, cucumbers, mechanized—Corn.		
South	Onions, lettuce, tomatoes (mid-summer to mid-September)		
Western slopes	Peaches, tomatoes		
Connecticut		[2] 14	14
Delaware	Tomatoes, sweet potatoes, string beans, apples, white potatoes, peppers, asparagus-April-July.	None	None
Kent and Sussex	Hand-pick—Tomatoes, sweet potatoes, white potatoes, apples, peppers, cucumbers, beans, peas. Mechanized—corn, soybeans.		

See footnotes at end of table.

STATE BY STATE CHILD LABOR LAWS

State	Crops	Age outside school hours	Age during school hours
District of Columbia		14	14
Florida	Vegetable harvest (January–May)	None	16/12
Miami	Corn, potatoes (mechanized) tomatoes, beans, squash, strawberries		
Tampa	Citrus, garden vegetables and tomatoes (October–June)		
Jacksonville	Potatoes, string beans, and other vegetables (mechanized), strawberries, peaches, watermelon, turnips (March–May, July), shade tobacco (March–May).		
Georgia		None	None
Hawaii	Adult labor except coffee on Kona coast	[3] 14	[3] 18
Idaho		None	14
Illinois	North of Chicago: Hand harvest practically nonexistent; South of Chicago: Some hand harvest of tomatoes, peaches, cucumbers, pumpkins, asparagus and apples. Tomatoes and cucumbers begin August 20.	10	None
Indiana		10	14
South Bend	Most tomatoes hand picked (mid-August–early October)		
Indianapolis	Tomatoes, apples, peach. Heaviest tomato is 2d week in September		
Iowa	Des Moines: Tomatoes (not mechanized) (August 1–September 30); thin beet greens, weed soy beans, detassel corn in summer.	[4] 14	16/14
Kansas	Wichita: Grains, wheat, sorghum, sugar beets (June–October)	None	None
Kentucky	Lexington: Hay, tobacco (September 1–October 30), some minors in tobacco; Louisville: Strawberry (2d week in May).	None	None
Louisiana	Shreveport: Cotton, peas (September 15–December 1), peaches, watermelon.	None	None
Maine	Potatoes (September 25–October 15) mechanization increasing	None	15
Maryland	Tomatoes, sweet and white potatoes, string beans, apples. Tomatoes—mechanized on farms of 50 acres or over; potatoes—mechanized as well as corn and soybeans.	None	16
Massachusetts		None	14
Michigan	Cherries, grapes, pickles, sugar beets, tomatoes, onions, and beans are mechanized.	None	None
Grand Rapids	Orchard fruit—apples, pears, peaches, plums, blueberries, and tomatoes, pickles.		
Detroit	Tomato—Mechanized		
Saginaw and Pay counties.	Harvesting (August 15–September 15). Dry beans—Mechanized cherries, sweet peppers, celery, cabbage, apples, pickles.		
Minnesota	Onions, potatoes—Increased mechanization	14	16/14
Mississippi	Potatoes—Mechanized—September–November	None	None
Missouri	St. Louis: Cotton—September to December—Mechanized strawberries—May–June; apples, peaches.	14	14
Montana	Little hand-harvesting	None	16
Nebraska	Potatoes—Mechanized; hand-pick for seed potatoes on small farms	None	None
New Hampshire		12	12
New Jersey	Trenton: asparagus—May; tomatoes—Mechanized—July/August; strawberries June; blueberries in July; peppers, corn, peaches in August.	12	16
Nevada		None	14
New Mexico	Cotton—Mechanized; peas—hand-harvest in late July/August; onions—April May.	None	14
New York	Buffalo—Fruit and vegetables, July to September, Syracuse—Fruit and vegetables, July to September, Long Island—Suffolk City: potatoes, cauliflower, strawberries, cabbage.	14/12	16
North Carolina	Strawberries (May); vegetables and blueberries—June–July; tobacco—August.	None	None
Greensboro	Cotton and tobacco—Mechanized; peanuts—Mechanized		
N.W.N.C	Apples, cabbage—Summer and early fall; green beans, tomatoes—September–October.		
North Dakota	Potatoes—Mechanized; hand-pick for seed on small farms	None	14
Ohio	Tomatoes—Hand harvest but mechanization increasing	None	16
Oklahoma	Oklahoma City: cotton—Mechanized, cotton choppers in July–August Tulsa: Wheat June 1–15; strawberries, hay cotton mechanized; peaches July 15–August 15 and truck garden vegetables June 1–August 15.	None	None
Oregon	Portland: potatoes, beans—Mechanized	None	14
Pennsylvania	Grapes—Early September. Large tomato farms—Mechanized; potatoes, corn, apples, peaches, cherries, pears, plums, green and ripe tomatoes; apples in October; fruit late July–November South and south-central area: fruit orchards—late October; Potatoes–September to October—Mechanized. Allentown: tomatoes—Stoop crop, September.	None	15–14
Rhode Island		None	None
South Carolina	Tobacco–June to August	None	16
South Dakota	Potatoes—Mechanized: hand-pick for seed potatoes on small farms	None	None
Tennessee	Memphis: strawberries—May to early June some vegetables in late spring, early summer. Nashville: strawberries—May to early June tomatoes, okra and cabbage—hand-harvest. Knoxville: beans—Mechanized, strawberries not grown commercially.	None	None
Texas	Corpus Christi: onions—April. Dallas—Crops corn, grain in July–August sorghum, cotton—Mechanized. Harlingen—Onions—April–May; grain, cotton—Mechanized, tomatoes—summer. San Antonio—Cotton—Mechanized.	[5] 14	[5] 14

See footnotes at end of table.

STATE BY STATE CHILD LABOR LAWS

State	Crops	Age outside school hours	Age during school hours
Utah	Little hand-harvesting	[4] 12	16
Vermont		None	21
Virginia	Roanoke: apples—Mid-September-October. Richmond:white and sweet potatoes, green beans, cucumbers—fall; strawberries—spring.	[4] 14	16
Washington		None	None
Richland	Spring: asparagus, weed sugar beets; fall-grapes, tree fruit, mechanized—grapes, peas, potatoes, hop, asparagus hand-picked, but machines are coming.		
Seattle	Mechanized: corn, peas, grapes. Hand-picked: asparagus, berries, cucumbers, pumpkins, tree crops May-June, June-October, August, September-October.		
Spokane	Mechanized: potatoes, onions, beets, row crops, hand-picked: apples, peaches, pears, tomatoes, onions, tree crops.		
Olympia	Hand-picked: strawberries (June 1-July 4) raspberries (July 4-August 1); logan and cane berries (July 4-August 1); blueberries (July 1-October 1) Note: machine picked after August. Cucumbers and pumpkins—August. Mechanized: corn (June-September); peas (June-July) hay (July); cranberries (October); mint.		
West Virginia	Charleston: No substantial crops. Clarksburg: Tree planing, strawberries in June, hay in summer.	None	None
Wisconsin	Potatoes—Mechanized; cherries—increase in mechanization; cucumbers—more mechanization each year; Cabbage September 1-September 20; apples August 15-October 1.	12	18
Wyoming	Little hand-harvesting	None	16
Puerto Rico	Sugar cane-mechanized—January to June. Tobacco—November to April. Coffee—September to December. Pineapples—April to October. Tomatoes, yams.	14	16–14

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[1] 12 during school vacation and on regular school holidays.
[2] None in weeks when average number of employees is 15 or fewer.
[3] Under 14 in coffee.
[4] Migrants 14 and 12.
[5] No minimum age June 1 to Sept. 1.
[6] No minimum age if with parental consent.

Source; Compiled from regional office reports submitted for 1971 annual report. Wage and Hour Division.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS,
Washington, D.C., May 21, 1975.

Hon. WILLIAM D. FORD,
Chairman, Subcommittee on Agriculture and Labor, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to provide your Subcommittee with the enclosed information relating to the child labor provisions of the Federal Fair Labor Standards Act discovered in the first six months of the current fiscal year. We regret the delay in submitting the additional data.

A review of the primary data disclosed that we had 254 violations on 86 farms rather than 265 violations on 64 farms. The enclosed charts give a breakdown by age, State and crop. Ninety-eight percent of the minors were employed to harvest the particular crops as shown. Forty-nine known minors under the age of 14 were illegally employed outside school hours, thus in violation of the 1974 amendments. These violations involved 14 farms.

Our current reporting system does not identify whether the minors are migrant or local. Based on the assumption that those employed by a farm labor contractor might be migrant children, we found that 34 farms employed 107 minors under such circumstances.

We are unable to provide any estimate on the number of corporate farms.

Plans are underway to collect data not now available to us in the next fiscal year.

Sincerely,

BERNARD E. DELURY,
Assistant Secretary.

Enclosures.

MINORS ILLEGALLY EMPLOYED BY STATE, JUNE 21-DEC. 20, 1974

State	Number of establishments with illegally employed minors	Total minors illegally employed	Years of age—						
			Under 8	8	9	10	11	12 and 13	14 and 15
California	4	12	0	0	1	0	0	2	9
Georgia	3	27	2	0	6	5	2	9	3
Indiana	23	60	2	3	3	8	8	14	22
Michigan	15	52	2	4	4	5	5	20	12
Minnesota	1	3	1	0	0	0	2	0	0
Nebraska	1	1	0	0	0	0	0	0	1
New York	1	1	0	0	0	0	0	0	1
North Dakota	1	1	0	0	0	0	0	0	1
Ohio	26	69	3	4	6	6	13	16	21
Oregon	1	1	0	0	0	0	1	0	0
South Carolina	1	4	1	0	2	0	0	1	0
Utah	1	2	0	0	0	0	0	1	1
Virginia	1	4	0	0	0	0	0	3	1
Wisconsin	7	22	2	0	2	2	4	4	8
Total	86	259	13	11	24	26	35	70	80

MINORS ILLEGALLY EMPLOYED BY CROP, JUNE 21-DEC. 20, 1974

Crop	Number of establishments with illegally employed minors	Total minors illegally employed	Years of age—						
			Under 8	8	9	10	11	12 and 13	14 and 15
Tomatoes	51	143	4	4	9	15	18	44	49
Cucumbers	13	38	4	3	4	4	4	6	9
Strawberries	1	10	1	2	1	2	2	2	0
Apples	4	10	1	0	0	0	2	4	3
Peppers	2	9	1	0	2	0	0	1	5
Pecans	2	25	2	0	5	4	2	9	3
Peaches	3	4	0	0	0	0	0	1	3
Asparagus	1	4	0	1	1	0	2	0	0
Green beans	1	1	0	0	0	0	1	0	0
Onions	1	1	0	0	0	0	0	0	1
Raisins	1	1	0	0	0	0	0	1	0
Grapes	1	3	0	0	1	0	0	1	1
Garlic	1	3	0	0	0	0	0	0	3
Miscellaneous farm chores	4	7	0	1	1	1	0	1	3
Total	86	259	13	11	24	26	35	70	80

Mr. **Ford**. I am sure we will be considering this matter for some time. Anything you can do to expedite the information would be very much appreciated.

Mr. **DeLury**. Yes, thank you.

Mr. **Ford**. The next witness will be Ken Meiklejohn, legislative representative of the AFL–CIO, and he has with him Mrs. Clara Schloss, consultant to the research department of the AFL–CIO.

At this point in the record, I would like to indicate that we proceeded out of order with the witness list. Representative Jim Weaver of Oregon had to leave but has left his statement with us and without objection, I would like to have it inserted in the record at this point.

[The statement referred to follows:]

PREPARED STATEMENT OF HON. JAMES WEAVER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. Chairman, I am grateful for the opportunity to appear before this committee to make a statement concerning H.R. 632 introduced by Mr. Meeds. This bill would authorize a limited waiver of the child labor provisions of the Fair Labor Standards Act of 1938 with respect to certain agricultural hand harvest laborers making it possible for children in Washington and Oregon to help harvest seasonal crops.

Generations of Oregonians have pleasant childhood memories of summers when they picked strawberries or raspberries or cucumbers or pole beans. They learned the responsibility that comes with honest work while earning spending money.

The young people who traditionally help harvest crops in the Northwest are not cruelly exploited migrant workers, but children whose families live in the community. Besides reaping the benefits of the agricultural experience, all too rare in this urbanized America, these young people have the satisfaction of playing a very important part in helping farmers harvest their crops.

In my own district, hundreds of adults whose jobs depend on canning and processing will be adversely affected if the traditional summer harvest is outlawed. Allowing piece work picking by young people does not take jobs away from adults, but rather makes it possible for adults to handle the more arduous and higher paying tasks.

Mr. FORD. Without objection, the prepared statement of Mr. Meiklejohn will be inserted in the record at this point.

[The statement referred to follows:]

PREPARED STATEMENT OF KENNETH MEIKLEJOHN, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO is opposed to HR 5329, a bill designed to authorize a waiver of the child labor provisions of the FLSA, as amended in 1974, with respect to certain agricultural hand harvest laborers. The 1974 amendments bar the employment of children under 12 years of age on large covered farms.

We have carefully reviewed the transcripts of the recent oversight hearings on this subject in Oregon, Washington and Maine. We are not persuaded by the testimony presented at these hearings that the employment of children under 12 years of age on large farms is necessary to avoid "economic disruption." We are of the opinion that such employment is detrimental to the health and well-being of young children, that their employment represents economic exploitation, and that child labor depresses wages of mature workers. This was our view when the 1974 Amendments to the FLSA were enacted, and it is our view today.

We have seen no statistical evidence in the special hearings to refute the accident data in the National Safety Council's Report—*Accident Facts*. The 1973 edition of the report shows that out of 14,100 occupational deaths in 1972 in a total work force of 82.3 million people, agriculture which employed only 3.6 million people accounted for 2,200 of them. In addition to the 2,200 deaths resulting from work accidents in agriculture, there were 200,000 disabling injuries. The Labor Department, in a special report on child labor, *Working Children*, issued in 1972, reported in a section, titled *Danger on Farms*, on some of the accidents befalling children despite the Department's Hazardous Occupations Order for Agriculture. This order provides a 16-year minimum age for operating a tractor and certain farm machinery. Nevertheless, the report showed that a "4-year old boy had his right arm ripped off when it caught in a corn auger and that a 5-year old was mangled and killed in the auger of a feed conveyor when his brother accidentally tripped the switch. . ."

The previous year, *Working Children* reported that "A majority of the youngsters employed during school hours were under 14 years old (903 or 61 percent), of whom half were migrants. . . . As in previous years, the children found working on the farm were behind the normal school grade for their age. . . . Injuries in one county during the fall potato harvest totaled 106, including amputations. The potato harvester was responsible for 36 of these injuries. . . . At least 31 of the injured were under 18, 14 of whom were 13 or younger. Harvesters amputated the thumb of a 14-year old boy, mangled a 12-year-old's right arm and hand, and crushed two fingers of another 14-year old." The Subcommittee may be interested to know that despite these alarming reports, the Labor Department has discontinued the publication of *Working Children* and no longer even classifies the child labor violations by age.

Nor, have we seen any evidence to refute the 1972 Report by the International Labor Office—"Minimum Age for Admission to Employment," which stated in part that: ". . . contrary to traditional ideas on the healthful nature of farm work, modern agriculture exposes workers to at least as much physical risk as most other sectors. This is not only a matter of heat, sun, dust and insects or the strains caused by stooping and lifting: the increased mechanization of agriculture has made it an especially hazardous occupation . . ."

What we have concluded from our review of available data on unemployment and wages is that the employment of young children in agriculture has been and continues to be a depressant of the adult wage scale and that such employment contributes to the higher unemployment rates. We are convinced that farm operators on farms covered by the FLSA did not really put the new agricultural child labor standards to the test by trying to live within the statute. Instead, efforts were made to say the new standard through court action and to bring pressure to have it changed by interpretation or by administrative edict. These efforts are still continuing. We oppose reinterpreting the coverage requirements of the Act to negate the standards.

We are shocked by the testimony of both the potato grower and the manager of a potato farm in Maine who stated, "there is nothing quite like seeing a child six, eight, ten years old stand in line waiting for his paycheck at the end of the week. He really feels like a man." And we do not take seriously the testimony of the children who stated that they preferred working in the fields to going to school. It is our view that these children should be in school, and the decision should not be based on whether they are having "more fun" working in the fields.

Furthermore, the testimony at the special hearings included some obvious misstatements of fact. For example, in the course of the oversight hearing in Oregon a grower stated that he was being forced to hire children under 12 because he was unable to hire 14 and 15-year old children to pick strawberries. He stated that the logging companies were employing the older children to dig fire trails and fire trenches. This would have been an illegal activity. The Labor Department investigated this statement and reported that minors under 16 are not used by logging companies for digging fire trails and trenches. The Department also checked with the grower who had made the charge, and he admitted that he could not confirm his allegations as they were based on rumor.

We are aware that some advocates of this bill do not challenge the idea that some types of child labor in agriculture may be detrimental to the well-being of young children, but they assert that this is not the situation in strawberry picking in Oregon and Washington or potato picking in Maine. Furthermore, they grant that migratory child labor should be eliminated but not local child labor.

In opposing this legislation, we are not challenging the statements of those who contend that local children who work on farms may fare somewhat better than migrants. However, we believe that this is a matter of degree and that child labor—whether local or migrant is undesirable.

We were impressed, and we think the Subcommittee should be aware, by a letter on child labor in agriculture which appeared in the Congressional Record on March 26, 1975. This letter was written by Leo T. McCarthy, speaker of the California Assembly. In it he urges the Congress not to amend the provisions of the FLSA as they outlaw the employment of minors under 12 in agriculture. Mr. McCarthy points out that California law has prohibited the employment of minors under 12 in agriculture except on family farms for the last 25 years. He notes that California produces 20 percent of the nation's agricultural products and has done so without employing children under 12 to harvest their crops. What he did not state in his letter but we know to be a fact is that the average farm wage rate, without board and room in 1974, was higher in California than in Washington, Oregon or Maine. It was $2.64 an hour in California, $2.51 in Washington, $2.27 in Oregon and $2.21 in Maine. Mr. McCarthy stated that the California ban on employing children under 12 would still stand even if the FLSA was amended but he was concerned with the national implications. He stated, in part, that by allowing children to compete in the job market we are further aggravating our depressed economy. At a time when the national unemployment rate has risen to such alarming proportions, it is obvious that every effort should be made to make more employment opportunities available.

The high level of unemployment is, of course, of special concern to us in the AFL-CIO. We are concerned not only with the official unemployment rate of 8.7 percent in March but with the unofficial rate which we believe to be almost 10 percent.

In February, when the official unemployment rate was 8.2 percent, nationwide, the official rate for Maine was 11.7 percent; for Oregon, 11.9 percent; and for

Washington, 9.8 percent. With unemployment rates at the highest levels since 1941 and with almost 4 million workers forced to work part-time because full-time jobs are not available we would suggest that attention should be directed toward generating additional jobs for mature workers rather than authorizing the employment of children under 12 years of age on large commercial farms.

We strongly oppose the employment of children under 12 for all the reasons cited above. In addition, we are opposed to HR 5329 because we do not believe it is constitutional, as it differentiates between local and migrant children and we are sure that it is too broad and too vague. For example, section (a)(1) of the bill would allow the Secretary of Labor to waive the child labor standard if he finds that it "would cause severe economic disruption in the industry of the employer applying for the waiver." It does not require the employer to submit documentary evidence that he attempted to fill these jobs by offering wages at or above the minimum wage to those 12 years of age and older. Nor does it explain how he would foretell "severe economic disruption."

Also, section (a)(3) requires, in part, that the waiver be granted only if those under 12 years of age would be employed "without displacing substantial job opportunities for persons over sixteen years of age." This language would permit those under 12 to be hired to displace children 12 to 16 years of age. We do not know what is meant by "substantial job opportunities" nor do we understand why the "under 12" group should be permitted to displace children who are 12 to 16 years of age with impunity.

We urge this committee to reject HR 5329 and thus reject the notion that agriculture must employ very young children in order to survive in this country.

We believe the present child labor standard is reasonable and we urge vigorous enforcement of all the child labor provisions. Employing children under 12 on commercial farms is not compatible with desirable national social policy.

Mr. FORD. You may proceed in any way you are most comfortable.

STATEMENT OF KENNETH MEIKLEJOHN, LEGISLATIVE REPRESENTATIVE, AFL-CIO, ACCOMPANIED BY MRS. CLARA SCHLOSS, CONSULTANT, RESEARCH DEPARTMENT, AFL-CIO

Mr. MEIKLEJOHN. Mr. Chairman, let me first identify myself. I am Kenneth Meiklejohn, legislative representative of the AFL-CIO. With me today is Mrs. Clara Schloss, who is a consultant to the AFL-CIO, on wage-hour and other matters.

Mrs. Schloss, as some of you may remember was assistant administrator of the wage and hour division, in charge of research and legislation.

We are very glad to be here and that you have provided us this opportunity to present the views of the AFL-CIO on what we consider to be an important piece of legislation. I should add that we have gone over this testimony before we came up here with Andrew J. Biemiller, director of legislation for the AFL-CIO, and this represents the officials views of the AFL-CIO.

I would like, if I may, to read this.

The AFL-CIO is opposed to H.R. 5329, a bill designed to authorize a waiver of the child labor provisions of the FLSA, as amended in 1974, with respect to certain hand harvest laborers. The 1974 amendments bar the employment of children under 12 years of age on large, covered farms.

We have carefully reviewed the transcripts of the recent oversight hearings on this subject in Oregon, Washington, and Maine. We are not persuaded by the testimony presented at these hearings that the employment of children under 12 years of age on large farms is necessary to avoid economic disruption. We are of the opinion that such employment is detrimental to the health and well-being of young children, that their employment represents economic exploitation, and that child labor depresses wages of mature workers. This was our view when the 1974 amendments to the FLSA were enacted and it is our view today.

We have seen no statistical evidence in the special hearing to refute the accident data in the National Safety Council's report—"Accident Facts." The 1973 edition of the report shows that out of 14,100 occupational deaths in 1972 in a total workforce of 82.3 million people, agriculture, which employed only 3.6 million people, accounted for 2,200 of them. In addition to the 2,200 deaths resulting from work accidents in agriculture, there were 200,000 disabling injuries. The Labor Department in a special report on child labor, "Working Children," issued in 1972, reported in a section, titled "Danger on Farms," on some of the accidents befalling children despite the Department's hazardous occupations order for agriculture.

This order provides a 16-year minimum age for operating a tractor and certain farm machinery.

Mr. Ford. May I interrupt you for just a second. Is there any way to relate the statistics in the studies that you are enumerating here to covered and uncovered farm employment under the Fair Labor Standards Act?

I just want to refresh your memory. I sat on the subcommittee that took almost 7 years to get the OSHA Act, and one of the things we constantly ran into was the argument that you come down to a point where, because it is small, an enterprise should not be covered. We continuously argued against that concept on the grounds that that is where the bulk of the accidents are found.

Now, there is a suspicion rattling around in the back of my mind—and some of it based on my own experience driving a tractor when I was so small I had to jump off the seat and push the clutch down to shift the gears—that farms chop their hands off and yet their kids are out there on family farms, too. There is a kind of reverse situation when you compare safety with the other conditions we are talking about.

Smaller and more informal operations, the greater the percentage of accidents. Another place that this committee dealt with that same phenomenon is in coal mining safety where they urged upon us the idea that small mines shouldn't be covered when, in fact on a per capita basis, it was far more dangerous to work in small mines than in the larger ones, because as bad as they were, there was some semblance of a cognizance of safety standards.

Now, do we have any way to judge that with respect to the overall statistics on how you get hurt on farms?

Mr. Meiklejohn. I don't know that we have special figures on that, Mr. Chairman, but I think our experience both in agriculture and in industry bear out the point that you are making, that often it is the smaller establishment where the accident rate is especially high. It is also the least organized operation where the accident rate is high. Where there is an awareness and sensitivity to the problem of accidents, then there will be fewer accidents. For the most part in agriculture, as in other lines of work, the smaller the operation, the fewer people you have with the means and the inclination to take the necessary precautions.

Mr. Blouin. Are you suggesting that the small family farm has less concern for safety than the large corporate enterprise?

Mr. Meiklejohn. That could very well be.

Mr. Blouin. I would take issue with that.

Mr. Meiklejohn. It may not be true in your experience, Mr. Blouin, but I think that is what the data generally have shown. Now, I am not sure that this is true in all phases of agriculture.

Mr. Blouin. What phase are you referring to?

Mr. Meiklejohn. I am referring generally to data that we have seen—at least the data that I have seen—that indicates that we have a greater problem of safety in industry and in agriculture with the smaller establishment than we do with very large ones.

Mr. Blouin. I would be very interested in seeing those statistics.

Mr. Meiklejohn. We will be glad to supply them.

Mr. Blouin. What part of agriculture are you talking about? I have never seen anything good come out of a corporate business venture in farming.

Mr. Meiklejohn. This is no argument for corporate farming—I am not citing this as an argument for the large farm. The question was whether there was a correlation between high accident rates and the size of the farm. That was all the question was and that is all that I meant to say. I didn't mean to imply anything else.

Mr. Blouin. Cause and effect correlation as opposed to just a similarity.

Mr. Meiklejohn. There is less awareness of the problem and less means to deal with the problem in a smaller establishment than there is in the larger. That is all I am trying to say.

Mr. Blouin. I would like to see those statistics.

Mr. Meiklejohn. We will provide them.

Mr. Ford. Do you want time to defend your family farm, Mr. Quie?

Mrs. Schloss. Mr. Meiklejohn asked me——

Mr. Quie. I have seen the statistics and it is more dangerous on a smaller operation. I reacted like Mr. Blouin when I first heard that.

Mr. Blouin. I tend to agree that there is probably less financial capability to correct the situation. I have a very difficult time accepting the fact that a family farmer is less concerned.

Mr. Quie. I don't agree that he is less concerned but I think you operate on a more informal basis in a smaller operation.

Mr. Meiklejohn. That is correct.

Mr. Quie. The employer isn't somebody who is aware of accident potential in a smaller operation, so you are apt to get a little more carelessness in a smaller operation.

Mr. Meiklejohn. That is what I was trying to point out.

Mr. Quie. I know the accidents that happen on my farm and after it is over, you wish you had taken some precautions but you are more careless that way.

Again, Mr. Blouin, it isn't any less concern. I think the smaller farmer probably has more concern but you just sort of let it slide by.

Mr. Meiklejohn. As you suggest, I was referring to the figures rather than to the matter of concern. I certainly was not trying to imply that there was any lack of concern on the part of the small farmer.

Mr. Quie. There is also a difference in the large corporation farms—children are kept away from the activity. On a small farm, as soon as they are able, they move with their father through the animals and the equipment, and accidents do happen.

Now, in the city, the same thing is true. They run into the car in front of the house. They don't run into the car and get run over downtown on a busy street. It is out in front of their house. The people that get run over by trains, get run over by trains by the crossing close to their home, not the strange one where they are looking both ways. So, that is the human phenomenon.

When you show statistics on a farm of children being hurt, an awful lot of them aren't working at all. But, I notice your testimony mentions the 4- and 5-year olds. Kids do run into equipment that way, but I don't think it is fitting at all or analogous to the problem that we have in the State of Washington, where as mentioned by one of the witnesses in Washington, that on the one farm, a forklift was the only piece of machinery out there, and I picked strawberries as a little kid. I didn't like my parents very well for making me do it, but now in retrospect I am glad they did. They taught me how to work, and I find out from my wife, whose father was a superintendent of schools, she started picking beans in Iowa at 6 years of age. She thinks of that as being a good experience and that is why our kids are in the garden picking beans.

Mr. Meiklejohn. I had a couple of brothers who did that in the summertime in the State of Wisconsin; that is, they used to do so.

Mr. Ford. Go ahead. I am sorry I interrupted you.

Mr. Meiklejohn. As Mr. Quie has pointed out, a 4-year-old boy had his right arm ripped off when it was caught in a corn auger and a 5-year-old was mangled and killed in the auger of a feed conveyor when his brother accidentally tripped the switch.

That accidental factor is one which he made reference to and it is one which is certainly an important factor when it comes to small children and small children around machinery.

The previous year, "Working Children" reported that "A majority of the youngsters employed during the school hours were under 14 years old (903 or 61 percent), of whom half were migrants * * * As in previous years, the children found working on the farm were behind the normal school grade for their age * * * Injuries in one county during the fall potato harvest totaled 106, including amputations.

"The potato harvester was responsible for 36 of these injuries. At least 31 of the injured were under 18, 14 of whom were 13 or younger. Harvesters amputated the thumb of a 14-year-old boy, mangled a 12-year-old's right arm and hand, and crushed two fingers of another 14-year-old."

The subcommittee may be interested to know that despite these alarming reports, the Labor Department has discontinued the publication of "Working Children" and no longer even classifies the child labor violations by age.

Nor have we seen any evidence to refute the 1972 report by the International Labor Office—"Minimum Age for Admission to Employment"—which stated in part that:

> Contrary to traditional ideals on the heathful nature of farmwork, modern agriculture exposes workers to at least as much physical risk as most other sectors. This is not only a matter of heat, sun, dust, and insects, or the strains caused by stooping and lifting: the increased mechanization of agriculture has made it an especially hazardous occupation.

What we have concluded from our review of available data on unemployment and wages is that the employment of young children in agriculture has been and continues to be a depressant of the adult wage scale and that such employment contributes to the higher unemployment rates. We are convinced that farm operators on farms covered by the FLSA did not really put the new agricultural child labor standards to the test by trying to live within the statute. Instead, efforts were made to stay the new standard through court action and to bring pressure to have it changed by interpretation or by administrative edict. These efforts are still continuing. We oppose reinterpreting the coverage requirements of the act to negate the standards.

We are shocked by the testimony of both the potato grower and the manager of a potato farm in Maine who stated, "There is nothing quite like seeing a child 6, 8, 10 years old standing in line waiting for his paycheck at the end of the week. He really feels like a man." And, we do not take seriously the testimony of the children who stated that they preferred working in the fields to going to school. Most kids I guess would. It is our view that these children should be in school, and the decision should not be based on whether they are having "more fun" working in the fields.

Furthermore, the testimony at the special hearings included some obvious misstatements of fact. For example, in the course of the oversight hearing in Oregon, a grower stated that he was being forced to hire children under 12 because he was unable to hire 14- and 15-year-old children to pick strawberries. He stated that the logging companies were employing the older children to dig fire trails and fire trenches. This would have been an illegal activity. The Labor Department investigated this statement because of that fact and reported that minors under 16 are not used by logging companies for digging fire trails and trenches.

NO VIOLATION

The Department also checked with the grower who had made the charge, and he admitted that he could not confirm his allegations as they were based on rumor.

We are aware that some advocates of this bill do not challenge the idea that some types of child labor in agriculture may be detrimental to the well-being of young children, but they assert that this is not the situation in strawberry picking in Oregon and Washington, or potato picking in Maine. Furthermore, they grant that migratory child labor should be eliminated but not local child labor.

In opposing this legislation, we are not challenging the statements of those who contend that local children who work on farms may fare somewhat better than migrants. However, we believe that this is a matter of degree and that child labor—whether local or migrant—is undesirable.

We were impressed, and we think the subcommittee should be aware, by a letter on child labor in agriculture which appeared in the Congressional Record on March 26, 1975.

This letter was written by Leo T. McCarthy, speaker of the California Assembly. In it he urges the Congress not to amend the provisions of the FLSA as they outlaw the employment of minors under 12 in agriculture. Mr. McCarthy points out that California law has prohibited the employment of minors under 12 in agriculture except on family farms for the last 25 years. He notes that California produces 20 percent of the Nation's agricultural products and has done so without employing children under 12 to harvest their crops. What he did not state in his letter but we know to be a fact is that the average farm wage rate, without board and room in 1974, was higher in California than in Washington, Oregon, or Maine. It was $2.64 an hour in California, $2.51 in Washington, $2.27 in Oregon, and $2.21 in Maine. Mr. McCarthy stated that the California ban on employing children under 12 would still stand even if the FLSA was amended, but he was concerned with the national implications. He stated, in part, that by allowing children to compete in the job market, we are further aggravating our depressed economy. At a time when the national unemployment rate has risen to such alarming proportions, it is obvious that every effort should be made to make more employment opportunities available.

The high level of unemployment is, of course, of special concern to us in the AFL–CIO. We are concerned not only with the official unemployment rate of 8.7 percent in March but with the unofficial rate which we believe to be almost 10 percent.

In February, when the official unemployment rate was 8.2 percent nationwide, the official rate for Maine was 11.7 percent; for Oregon, 11.9 percent; and for Washington, 9.8 percent. With unemployment rates at the highest levels since 1941 and with almost 4 million workers forced to work part time because full-time jobs are not available, we would suggest that attention should be directed toward generating additional jobs for mature workers rather than authorizing the employment of children under 12 years of age on large commercial farms.

We strongly oppose the employment of children under 12 for all the reasons cited above. In addition, we are opposed to H.R. 5329 because we do not believe it is constitutional, as it differentiates between local and migrant children, and we are sure that it is too broad and too vague. For example, section (a)(1) of the bill would allow the Secretary of Labor to waive the child labor standard if he finds that it "would cause severe economic disruption in the industry of the employer applying for the waiver."

This we believe is far too vague a standard to be sustained constitutionally. It does not require the employer to submit documentary evidence that he attempted to fill these jobs by offering wages at or above the minimum wage to those 12 years of age and older. Nor does it explain how he would foretell "severe economic disruption."

Also, section (a)(3) requires, in part, that the waiver be granted only if those under 12 years of age would be employed "without displacing substantial job opportunities for persons over 16 years of age." This language would permit those under 12 to be hired to displace children 12 to 16 years of age.

We do not know what is meant by "substantial job opportunities" nor do we understand why the "under 12" group should be permitted to displace children who are 12 to 16 years of age with impunity.

We urge this committee to reject H.R. 5329 and thus reject the notion that agriculture must employ very young children in order to survive in this country.

We believe the present child labor standard is reasonable and we urge vigorous enforcement of all the child labor provisions. Employing children under 12 on commercial farms is not compatible with desirable national social policy.

Mr. FORD. Thank you very much, Mr. Meiklejohn.

Mr. MEIKLEJOHN. Thank you, Mr. Chairman.

Mr. FORD. I would only ask one thing. Mr. DeLury, who preceded you, representing the Labor Department, in his statement made references to a case tried before a three-judge panel of the Federal court, *Larry Williams Kelly et al.* v. *Peter J. Brennan*, which was the case of the temporary injunction affecting Oregon and Washington. When they ultimately decided, they found the 1974 amendments in the face of a constitutional challenge, which was one of the major issues in the case brought by the growers, to be constitutional.

The decision was based on the fact that the provision exempted children who resided on the farm or were accompanied by parents or were employed on a farm that did not use more than 500-man hours of labor was constitutional, in spite of the fact that the growers alleged that that was a constitutionally prohibited form of discrimination.

I wonder if you would just think with me about whether, in fact, we don't already have a precedent for the idea; the kind of discrimination that you find constitutionally troublesome here has already been passed upon by the Federal court.

Mr. MEIKLEJOHN. Mr. Chairman, there is a difference here in the fact that this bill does not provide a specific exemption for children 12 and under. It permits any employer or group of employers to apply to the Secretary for a waiver of the application of section 12. It is the absence of standards to guide the Secretary of Labor in making this kind of determination which we believe is the grounds for unconstitutionality with respect to this bill, rather than the different treatment that may have been ruled upon in the court case to which you refer.

Mr. FORD. That is a little different than your statement.

Mr. MEIKLEJOHN. Well, I think we tried to make that point clear in the statement. If we didn't, that is the basis for our position.

Mr. FORD. The statement attaches the principal importance to the specific discrimination and then goes on to say that the language, "would cause severe economic disruption" in industries, is where we get the vagueness.

Mr. MEIKLEJOHN. It is not only vagueness. It is improper classification. We make the point here that section (a)(1) would allow the Secretary of Labor to waive the child labor limitations under certain given circumstances. It is that determination by the Secretary, in the absence of clear direction to him as to what basis he should follow in making that determination, which gives rise to a constitutional question, as we see it.

Mr. FORD. Thank you. Mr. Quie?

Mr. QUIE. No questions, Mr. Chairman.

Mr. FORD. Mr. Meeds?

Mr. MEEDS. Thank you, Mr. Chairman. Mr. Meiklejohn, do you have a copy of the bill?

Mr. MEIKLEJOHN. Yes, I do.

Mr. MEEDS. Would you turn to page 2—On H.R. 5329, would you turn to page 2 and read to me the line beginning on line 5, through line 7.

Mr. MEIKLEJOHN. I suppose I should read lines 1 and 2, also.

Mr. MEEDS. Would you just read line 6, even?

Mr. MEIKLEJOHN. "Waiver would apply would not be deleterious to his . . . health or well being."

Mr. MEEDS. I am really amazed, Mr. Meiklejohn. You come in here with four pages of horror stories which have absolutely no applicability to this situation which we find ourselves, and I am particularly surprised because you tell me you read the transcript of the hearings in Washington State. Isn't that correct?

Mr. MEIKLEJOHN. That is correct.

Mr. MEEDS. You read in those hearings about the report of injuries, did you not, in the strawberry fields in 1973 in Oregon.

Mr. MEIKLEJOHN. Yes.

Mr. MEEDS. Where the State Labor Department took a survey—how many injuries were there in all the strawberry fields in Oregon reported in 1973?

Mr. MEIKLEJOHN. I don't recall the number.

Mr. MEEDS. Well, we are talking specifically about that. You recall—these other things about the boy that got his arm caught in a corn machine and some other things.

Let me remind you that in those hearings there is testimony in that record which indicates that in the State of Oregon all the strawberry fields, the reports of accidents were three in 1973, and those were two cuts and one bruised eye from a thrown strawberry. Now, is that the kind of thing that you are talking about in these four pages?

Mr. MEIKLEJOHN. No, Mr. Congressman, it is not.

Mr. MEEDS. What applicability does all of those horror stories about machine-caused accidents have to do with what we are confronting ourselves with here?

Mr. MEIKLEJOHN. Their applicability lies in the fact that this bill, as it is drafted and in its present form is not limited to the picking of strawberries in Oregon or Washington or anywhere else. It applies across the board to hand harvest work and hand harvest work is performed under different conditions in many States. It is not limited to strawberry picking in Oregon or Washington.

Mr. MEEDS. All of your illustrations of injuries indicate the use of machinery; do they not?

Mr. MEIKLEJOHN. These do in here; that is, the figures that we have cited in the statement.

Mr. MEEDS. Would this great fear that you have be then removed if we were to put an amendment in there requiring that no machinery be used wherever this labor is being conducted?

Mr. MEIKLEJOHN. I think that would improve it, but I don't think that would eliminate our objection to the bill.

Mr. MEEDS. I understand that. About your fear of injury to children.

Mr. MEIKLEJOHN. That would reduce the danger of injury to children.

Mr. MEEDS. You also talk about the fact that this depresses wages of mature workers. Were you present when I asked the Labor Department questions?

Mr. MEIKLEJOHN. I was not able to hear the responses, I regret to say, Congressman. This room is a little difficult.

Mr. MEEDS. I will try to summarize it for you. In 1971, in the State of Washington we went through a rather severe economic recession, indeed almost a depression, where the unemployment rates climbed above 15 percent. In that year, between 30 and 40 percent of all the strawberries in Washington State were picked by young people under the age of 12.

In years before and years since, when the unemployment rate has been substantially lower, approximately 30 to 40 percent of the berries were picked by young people under the age of 12. Now, does that indicate anything to you?

Mr. MEIKLEJOHN. What it indicates to me is that as far as the situation of agriculture and the picking of strawberries in Oregon or Washington is concerned, you may have one situation but unfortunately in trying to deal with that situation, you have got legislation which could have very harmful effects in many other parts of the country. We understand and we have sympathy for the problem that the strawberry growers in Washington and Oregon have or feel they have under the Fair Labor Standards Act. Most employers when they first come under the Fair Labor Standards Act have experienced the same fear, exactly the same difficulties, but on the whole they have found in the course of the nearly 40 years of history since it went on the books, that the act has not worked harmfully to them or anyone else.

Mr. MEEDS. Mr. Meiklejohn, you know that agricultural labor wage rates in the State of Washington are some of the highest in the Nation. In fact, I think they are probably—next to California—about the highest in the Nation.

Isn't that correct? It is $2.51 an hour in 1974 and California was $2.64.

Mr. MEIKLEJOHN. That is correct.

Mr. MEEDS. I think you know from experience that wage rates in agricultural labor in the State of Washington are some of the highest in the Nation.

Mr. MEIKLEJOHN. When we are considering a minimum wage of at least $2.50 an hour, I don't know that we would consider those to be very high wage rates.

Mr. MEEDS. Everything is relative, Mr. Meiklejohn. Can you tell me where they are higher, other than California? Can you tell me where they are higher?

Mr. MEIKLEJOHN. I am sure I can't.

Mr. MEEDS. I am sure you can't because I don't think there are, so we are talking in relative terms here. I would agree with you $2.50 an hour is not very much. You and I would agree on that.

Mr. MEIKLEJOHN. That is correct.

Mr. MEEDS. But, I think you would agree with me in a relative sense, agricultural wage rates in the State of Washington are some of the best in the Nation.

Mr. MEIKLEJOHN. I would certainly agree with that.

Mr. MEEDS. How can this very depressing effect—how do we have this depression effect by 12-year-olds and under picking strawberries?

Mr. MEIKLEJOHN. What we have tried in our statement to do is to demonstrate to the subcommittee what the consequences of this legislation would be, meritorious as it might be as applied to the picking of strawberries in Oregon and Washington, to agricultural employment, agricultural child labor, throughout the country. That is what our concern is. We are not interested in being difficult or making things difficult for anyone, but we also are very much concerned that what seems like a good case—and as you as a lawyer know, a good case sometimes can make bad law—we don't want to make bad law in this case, simply because under the circumstances that you have cited to us in the State of Washington no harm might be done.

Mr. MEEDS. What it really comes down to, Mr. Meiklejohn, is that you made what you considered to be a gain and something that I considered to be a gain.

Mr. MEIKLEJOHN. I believe we all did last year.

Mr. MEEDS. In restricting children under the age of 12 from working, but the gain has been made at the expense of some segments and for reasons which do not apply in some areas, and what you are doing is making it apply everywhere, and what I am trying to do is make an exception so that where it doesn't apply, young people under the age of 12 can still continue to work.

I think we are all agreed with the very laudable purposes which you point out in four pages of horror stories, but unfortunately they don't have any applicability to what we are talking about.

Mr. MEIKLEJOHN. They may not have applicability to the problem that concerns you most directly, but believe me, we feel that they do have relevance to the problem as it would apply across the country.

Mr. MEEDS. Thank you.

Mr. FORD. Mr. Blouin.

Mr. BLOUIN. I have no questions, Mr. Chairman.

Mr. FORD. Thank you. I think you could see that Mr. Meeds feels rather strongly about this.

Mr. MEIKLEJOHN. I understand. We have had discussions with Mr. Meeds on the subject and we know very much how he feels. We are also sympathetic with the problem that has been presented to him. I am sure he is aware of that, but that doesn't relieve us of our responsibility to make clear to the committee how we feel about the effects of this legislation when applied across the board, in other industries and in other parts of the country.

Mr. FORD. I can understand also your reluctance to assist in any way to make the legislation more palatable to anyone, but I am sure that you are sincere in your acknowledgment here that, if there were prohibitions against any kind of hand harvesting that involved directly or indirectly exposure to machinery, it would be improvement over the present status of the bill.

Mr. MEIKLEJOHN. That would certainly be an improvement—to make sure that all the necessary precautions were taken—that people would not get hurt when they are engaged in hand harvest work. There are also health hazards involved in work under certain conditions which we have not particularly stressed here—although most people would feel working outdoors is a good way to spend the summer.

When you are out all day in the hot sun, I guess there could be problems with that, too. We haven't particularly stressed that. It is a fact that that would also have to be considered by the committee, we think.

Mr. **Ford.** There are other children that are discriminated against besides migrants. I take it that if you were an orphan living in a State institution, you couldn't pick strawberries or anything else. But, isn't there a sound basis for that kind of discrimination? What we really have always been after is the exploitation by the people who have less concern for their future.

That is one of the bothersome things here about the total community involvement. Maybe Mr. Meeds took us to the best places, to put his best foot forward—but the fascination of the total community involvement, with the school people and everyone else, is something that has made an impression on me. The one element that is involved there is that you have the children of the powerful—the most powerful—in the community directly involved in the operations.

So, you have the best kind of hostage—going back to Mr. Coleman's idea about how we could improve the quality of education for people who were being denied adequate access. He was always talking about his socioeconomic mix in terms of what that would do, in effect—and I am using terminology that upsets some people—to make the children of the articulate, powerful segments in the community hostages for the weak and the underprivileged. In order to do something for one, you would have to do it for the other.

That is a characteristic that we found pervasive in this thing, and if there was a way to legislate that characteristic in, I think it would be desirable.

Mr. **Meeds.** Pass this bill, Mr. Chairman.

Mr. **Ford.** I would like to close by asking you for the same kind of reaction that we asked the Labor Department for. On more than one occasion you have responded that, while you can sympathize with the special conditions that you saw in Washington, which is presumably the same in Oregon, your concern is a nationwide concern.

I am a little bit surprised at the Labor Department, especially with someone who has been in the field as long as the Director of the Division of Child Labor, can't think offhand of another part of the country where child labor is being abused. And, out of 265 cases, there isn't even one of them that is of sufficient import to make an impression on the whole array of people from the Labor Department.

That is, in large part, a criticism of their sensitivity to their obligation under the law. Can you suggest to us where this committee ought to look for the antithesis of what Mr. Meeds has presented to us in Washington, the area where we would be likely to expect to find exploitation of child labor.

Mr. **Meiklejohn.** Well, I think we would say, Mr. Chairman, that you would expect to find very similar conditions wherever you have any kind of hand harvest work and that is what this bill purports to apply to. It is not just simply picking strawberries, or digging potatoes. You will observe also we have spent some time discussing the problem of the potato farmer.

This is exactly the problem as far as we are concerned. This may sound like a meritorious case, as far as Washington is concerned, but as soon as you turn around——

Mr. Ford. I don't want to argue the merits of Washington anymore. What you are saying is correct and I am now a little concerned by the fact that people most interested in this cannot suggest to me a place that we would turn to see examples of the kind of exploitation that by Federal law we are trying to prevent.

Mrs. Schloss. I think that is a function of the fact that they have not been collecting the statistics. The Labor Department has not been tabulating these statistics. They go in when there is a complaint and they do that particular complaint but nobody can give you any overall figures on any of these things.

I think you can go to the Department of Agriculture—I called every agency in town to try to get some insight into this. I am told they failed to get cooperation from the growers and from the processors and it is impossible to answer the statistical questions—the same questions you asked of the Department of Labor. The Labor Department did attempt to make these studies. They did call me for ideas. I have no answers on how they can do the job when they can't get voluntary cooperation.

Mr. Meeds. Mr. Chairman.

Mr. Ford. We have at the moment someone checking with the States who have had experience with the 12-and-under, and also with the new law. The returns are just coming in at the moment. I checked with the appropriate department in the State of Maine and found that, since the law went into effect on May 4, 1974, (1) there have been no complaints, (2) they don't have enough staff, and (3) only 45 out of 1,200 potato growers are affected because of the size exemption. That is fascinating. That is the place that we were worried about machinery—and only 45 out of 1,200 people are covered up there——

Mr. Meiklejohn. We are glad to hear those figures because we have been trying to get them.

Mr. Ford. They say there is a similar fraction for blueberry growers, but they have no statistics.

Mrs. Schloss. They don't even have estimates of the number of covered farms by States under the new coverage definition of the 500-man-day test. So, it is pretty difficult to say how many farms are in fact covered under the Fair Labor Standards Act.

Mr. Ford. So, aside from the merits of this particular piece of legislation, we are developing here a picture of an almost total disregard for the spirit of the law passed in 1974 on the part of those to whom we look to see what the dimensions of the problem are.

Mr. Meiklejohn. I would think that is a fair statement.

Mr. Ford. We don't know much about what we are doing except the hunches we have. Mr. Blouin, you had a question?

Mr. Blouin. Yes, my question dealt with a point that you raised in regard to the hesitancy of your group to try to improve the bill. Can you find a way in that same vein of wording this bill so that it would just apply to the kind of problem that Mr. Meeds has. I am concerned about——

Mr. Meiklejohn. Just say "strawberries."

Mr. **Blouin.** In just Oregon, right? If what the Labor Department says is true, this thing could apply to a couple of dozen States around the country on a piecemeal basis, and that concerns me in terms of the magnitude. I really sympathize with this problem, but I don't know how to answer it. I wish some of you people who dealt with this for years could give us a way of working on it.

Mr. **Meiklejohn.** We can sympathize with the problem but I don't think it is very easy to develop. You may regard it as a facetious remark that I just made, but essentially if you are going to deal with that problem and limit it to a particular type of activity, you are probably going to have to specify that particular activity or else you are going to have an exemption which will apply across the board and will cover situations which you don't want to cover.

This, I guess, also would present a problem as to whether or not it was a reasonable classification. I don't know what the difference between picking strawberries and picking raspberries is.

Mr. **Quie.** They are a little higher up.

Mr. **Meiklejohn.** And, then of course, as soon as you get into that, you are going to have people coming in with closely similar situations.

So that really is not a solution for it either. It is our feeling that the law as passed was a sound law and we would like to see it upheld and we would also like to see it enforced, which is one of the biggest problems we have got. Unfortunately, on the whole, this law, which has been on the books since last May, has not really been enforced in the agriculture field since it was passed.

Mr. **Meeds.** Will the gentleman from Iowa yield?

Mr. **Blouin.** Certainly.

Mr. **Meeds.** Mr. Meiklejohn, would you tell me whether you think it is more dangerous to be working in a strawberry field, picking strawberries, or more dangerous in a large city delivering newspapers?

Mr. **Meiklejohn.** I would much rather be picking strawberries.

Mr. **Meeds.** You think that is the more dangerous?

Mr. **Meiklejohn.** No. I think I would rather be picking——

Mr. **Meeds.** Would you answer my question? Which do you think is more dangerous?

Mr. **Meiklejohn.** I think delivering newspapers in large cities would be more dangerous—delivering anything.

Mr. **Meeds.** Would you agree with me that there are a lot of young people under the age of 12 delivering newspapers in large cities?

Mr. **Meiklejohn.** There is an exemption for them.

Mr. **Meeds.** Why do you suppose that is?

Mr. **Meiklejohn.** There is not an exemption for those under 12. There is a total exemption for the delivery of newspapers.

Mr. **Meeds.** Would you agree with me that there are a large number of children under the age of 12 delivering newspapers in large cities?

Mr. **Meiklejohn.** I don't know the answer to that.

Mr. **Meeds.** Well, I am sure there are.

Mr. **Meiklejohn.** Well, the ones that I have had experience with in delivering newspapers are not under 12. We know them personally.

Mr. **Meeds.** You would be opposed to that, I assume—children under 12 delivering newspapers?

Mr. **Meiklejohn.** We were opposed to the newspaper exemption.

Mr. **Meeds.** How is it exempted?

Mr. **Meiklejohn.** There is a specific exemption in the law for delivery of newspapers to consumers at their homes.

Mr. **Meeds.** The child labor law does not apply to them?

Mr. **Meiklejohn.** That is right. The act, itself, doesn't apply.

Mr. **Meeds.** The act, itself. So, that it is not unlawful for the children under the age of 12 to deliver newspapers?

Mr. **Meiklejohn.** No; it is not.

Mr. **Meeds.** Well, why do you suppose that exemption has been made?

Mr. **Ford.** I can tell you—nobody wanted to put Orphan Annie out of business.

Mr. **Meiklejohn.** This was included in the law, Congressman, over our objections. We have opposed that exemption for many years and so has the Department of Labor.

Mr. **Blouin.** I think it is extremely difficult to compare those occupations. Anyway—you are talking about 1½ hours on a city street, as compared to 10 or 12 hours in the field.

Mr. **Meeds.** I think it is difficult to compare them also. I think it is a hell of a lot safer and better to be picking strawberries than it is delivering newspapers.

Mr. **Blouin.** Well, your chances of getting held up are less.

Mr. **Ford.** Do you have any further questions?

Mr. **Quie.** Let me ask—do you think a child 12 and under should do any work?

Mr. **Meiklejohn.** Any paid work?

Mr. **Quie.** Paid or unpaid.

Mr. **Meiklejohn.** I think he could be asked to do work around his home, but he should not be doing work on a farm, in industry, or trade, and so on.

Mr. **Quie.** But you do say he should be able to do work around the home. He shouldn't be prevented from that. That is not bad for him.

Mr. **Meiklejohn.** I would think there are other factors that come into play at that point that outweigh——

Mr. **Quie.** Do any of those factors come into play in employment—for instance, in the strawberry patch. I want to know what the basis is—if they can work. Is it the fact that they are getting paid?

Mr. **Meiklejohn.** Of course. What the law provides is a coverage test based upon a certain size operation. The farm must have used 500 man-days of hired farm labor.

Mr. **Quie.** But I assume you favor prohibiting those under 12 working at any place.

Mr. **Meiklejohn.** I think we have accepted this definition as a compromise.

Mr. **Quie.** So the fact that they are being paid is what you are opposed to, rather than the fact that they are working.

Mr. **Meiklejohn.** That is correct, I think.

Mr. **Ford.** Thank you for your testimony.

Mr. **Meiklejohn.** Thank you. We will continue to try to come up with some suggestions that might be looked into. We have looked carefully into the problem and we haven't been able to come up with any good solution. I wish we had one.

Mr. **Ford.** I would just make a note—we have interrupted some hearings on offshore problems. We intend to have some more and will take a look at what we have already and you could give us some help in the gathering of some more information.

Mr. **Meiklejohn.** Did I understand you to say that you are going to have more hearings on this.

Mr. **Ford.** Not on this—on the off-shore problem.

Mr. **Meiklejohn.** Yes, we will be glad, of course, to give whatever help we can.

[Material submitted for inclusion in the record:]

American Federation of Labor and
Congress of Industrial Organizations,
Washington, D.C., May 20, 1975.

Hon. William D. Ford,
Chairman, Subcommittee on Agriculture Labor, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: In the course of my testimony on H.R. 632, the bill to authorize the Secretary of Labor to waive the application of the child-labor provisions to certain agriculture hand harvest operations, I agreed to furnish the Subcommittee any available data indicating correlation between high accident rate and size of operations. I am enclosing herewith a table entitled Recordable Occupational Injury and Illness Incidence Rates, Private Sector, by Employment Size and Industry Division, United States, 1973 and 1972.

I would appreciate it if you would include this table in the record of your hearings as part of my testimony.

Sincerely yours,

Kenneth A. Meiklejohn,
Legislative Representative.

Enclosure.

RECORDABLE OCCUPATIONAL INJURY AND ILLNESS INCIDENCE RATES, PRIVATE SECTOR, BY EMPLOYMENT SIZE AND INDUSTRY DIVISION, UNITED STATES, 1973 AND 1972

Number of employees	Incidence rates per 100 full-time workers [1]														
	Private sector [2]		Agriculture, forestry, and fisheries,	Contract construction		Manufacturing		Transportation and public utilities [4]		Wholesale and retail trade		Finance, insurance, and real estate		Services [5]	
	1973	1972	1973 [3]	1973	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973	1972
All sizes	11.0	10.9	11.6	19.8	19.0	15.3	15.6	10.3	10.8	8.6	8.4	2.4	2.5	6.2	6.1
1 to 19	5.5	5.7	8.5	13.6	14.3	10.9	11.8	7.4	8.0	4.5	4.6	1.9	2.1	2.6	2.7
20 to 49	10.3	10.3	12.1	21.2	19.8	16.2	16.5	11.9	12.7	8.9	8.9	2.1	1.9	5.0	4.6
50 to 99	13.1	13.3	13.6	23.7	22.8	19.2	19.5	13.7	12.6	11.1	11.1	2.8	2.9	6.4	7.6
100 to 249	14.8	14.7	15.3	23.8	24.9	20.2	20.2	11.5	11.6	12.5	12.1	2.8	2.8	8.4	7.9
250 to 499	13.8	13.7	14.3	23.7	24.2	17.6	17.3	9.9	9.0	12.4	11.5	3.1	3.0	7.7	8.4
500 to 999	12.5	12.2	15.6	21.0	19.7	14.4	14.3	9.1	10.0	11.5	12.4	2.7	2.9	10.0	9.4
1,000 to 2,499	10.9	10.9	[6] 16.3	16.8	15.1	12.2	11.9	10.4	11.3	11.7	11.9	3.3	2.8	8.1	8.9
2,500 and over	9.7	11.1	----------	8.6	12.7	11.0	12.4	8.5	11.4	8.8	10.2	2.0	1.8	6.1	6.4

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[1] The incidence rates represent the number of injuries and illnesses per 100 full-time workers, and were calculated as: (N/EH)×200,000, where N=number of injuries and illnesses; EH=total hours worked by all employees during the calendar year; 200,000=base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

[2] For 1973, the "all sizes" estimate for the private sector includes agricultural production (SIC 01), all of mining (SIC 10-14), and railroads (401). Incidence rates by employment-sized groups for the private sector excludes data for coal and lignite mining (SIC 11-12), and metal and nonmetal mining and quarrying (SIC 10 and 14). The 1972 estimates for "all sizes" and employment-size groups excluded agricultural production, railroads, and mine activities except oil and gas extraction (SIC 13).

[3] Comparable data are not available for 1972.

[4] 1973 data include railroads (SIC 401).

[5] 1972 data include agricultural services, forestry, and fisheries (SIC 07-09). These industries are included in the agriculture, forestry, and fisheries division for 1973.

[6] Rates for units with 1,000 or more employees.

Source: Bureau of Labor Statistics, U.S. Department of Labor.

Mr. FORD. The next witness is Miriam Guido, of the Migrant Legal Action Program, Washington, D.C.

STATEMENT OF MIRIAM GUIDO, STAFF ATTORNEY WITH THE MIGRANT LEGAL ACTION PROGRAM

Mr. FORD. Would you introduce your colleague?

Ms. GUIDO. I am Miriam Guido. I am an attorney with the Migrant Legal Action Program. I am accompanied by Rudy Arredondo, who is a paraprofessional with our program.

Rudy is also a former farmworker who worked in child labor as a child. I have attached to my statement a copy of two poems that he wrote and after I read my statement I would like you to hear his poems. I think they are very provocative of the situation that we are concerned with here today.

Mr. FORD. Without objection, your full statement will be inserted in the record, so you may summarize it or point out the highlights or add to it—whatever you would like to.

Ms. GUIDO. Well, I think, Mr. Chairman, that I could skip the description of the act. I think we have probably a very thorough understanding at this point in time.

[The statement referred to follows:]

PREPARED STATEMENT OF MIRIAM GUIDO, STAFF ATTORNEY WITH THE MIGRANT LEGAL ACTION PROGRAM

Gentlemen, I appreciate this opportunity to comment on H.R. 632, a bill to authorize a waiver of the Child Labor provisions of the Fair Labor Standards Act.

The position of my organization and the farmworkers we represent is in strong opposition to this proposed legislation. We hope that by pointing out the adverse consequences to migrant and seasonal farmworkers from this legislation, we can dissuade you from reporting out this bill.

Child labor has long been prohibited in general industry. Children under 14 have been banned from all activities with three exceptions, one of which is agriculture. The presumption that child labor is harmful cannot be overcome for the child under 14. However, children between 14 and 16 will be permitted to work where it has been established that the work will not interfere with their schooling, health or general well-being.

Prior to 1974, children were permitted to work in agriculture outside of school hours, at any age. However, early in 1974, an amendment to the Fair Labor Standards Act was passed which extended the Act's protective coverage to children working in agriculture. Under the new law, no child under the age of 12 is permitted to work at any time on those farms employing substantial numbers of workers. 13- and 14-year-olds are required to have written permission of their parents and to show proof of age in order to work outside of school hours.

Following passage of the child labor amendment, farmers in the Northwest successfully enjoined enforcement of the law. In the Fall, the U.S. District Court in Oregon upheld the law but it was too late to have an impact on child labor in 1974.

Meanwhile, amendments have been submitted in both houses of the U.S. Congress which would, if passed, grant exemptions from the law for children under 12 to work on jobs which the Secretary of Labor "finds and declares" are: (a) Outside of school hours and within commuting distance of their permanent residence; (b) traditionally hand-harvested and paid on a piece-rate; (c) of no more than thirteen weeks duration; and (d) not "deleterious to their health or well-being."

Unlike general industry, where all child labor under the age of 14 is presumed to be harmful, this exemption presumes that child labor under the age of 12 in agriculture can and will be established to be harmless. The absolute harm suffered by children under the age of 12 from sustained child labor will be demonstrated today by others more qualified to speak to this issue.

We must oppose this exemption because of the adverse impact it will have on two classes of farmworkers we represent: the migrant farmworker and the children of settled-out migrants and other seasonal farmworkers. The children of the settled-out migrants and other seasonal farmworkers will suffer the often-told abuses which an underpaid, overworked child, working out of financial necessity, is forced to undergo. The migrant and his family will suffer from the discriminatory economic policy which permits local but not migratory child labor to work in the fields. Having been led to believe that the end of child labor would end his own economic exploitation, the migrant will be sadly disappointed.

This subcommittee is mistaken if it believes that the proposed legislation will only permit the happy-go-lucky, middle-class child to labor in the fields. It is not only the bicycle children going to work voluntarily with their friends to earn money for a horse or a bicycle who will be permitted to work, but also their raggamuffin counterparts—the poor Chicanos and Russians; the children of migrants who have settled out but are still barely eking out an existence in seasonal farm labor.

These settled-out migrants constitute a large proportion of the seasonal farm labor force. It is estimated that only 124,000 of the 972,000 seasonal hired farmworkers in the United States are migrant farmworkers. Accordingly, the majority of the seasonal farm labor force used to harvest a crop consists of local rather than migrant workers. This has been established in both Washington and Oregon.[1] The seasonal farm labor force does not earn considerably more than the migrant farm labor force.[2] The average yearly wage of all seasonal farm laborers including migrants is $2,533, while the average yearly wage of the migrant is $2,873.

The children of the settled-out migrant and the children of poor local families must work out of economic necessity. They must work long and hard to support their families. It is precisely this type of work, which will be permitted under the proposed exemption, which Congress sought to outlaw. It is the poor child who (apart from the inherent dangers in agricultural work) suffers most from child labor. Many of these children bring to the fields malnourished and poorly-developed bodies. They bring a sense of urgency about contributing to the family income. Finally, because of economic pressure and poor educational history and motivation in the family, they tend to give work precedence over school. A good example of this recently occurred in Woodburn, Oregon, where the school board voted against establishing a 12-month school program after submission of a petition by the Russian community that their children would work during the summer harvest months.

The experience of a child forced to work out of economic necessity is eloquently described in the attached poems by Rudy Arredondo, a former farmworker who worked in the fields as a child. The subcommittee did not hear from these children in Washington or Oregon, but it cannot afford to overlook their existence.

The problem with this exemption is unfortunately twofold. It not only permits the children to work—children who most need the protection of the law—but it also prohibits the labor of other children, at the expense of their survival and livelihood. The exemption will prohibit the use of migrant child labor by limiting the exemption to children who commute to work from their permanent residence. As such, it will permit local child labor to flourish, thus depressing the wage.

The 1974 amendments, in outlawing all child labor under 12, were intended to deal with the adverse economic impact upon poor migrant families who would suffer the economic loss of their children's wages. It was believed that as a result of the ban on child labor, the adults' wages would increase.

In enacting the 1974 amendments, the Congress stated that there were three reasons why child labor must be ended. The third reason was child labor ". . . is, as was industrial child labor years before, economic exploitation of human resources." To the Congress, it was ". . . clear that the employment of children in agriculture is not only a direct source of cheap labor, but has the effect of depressing the average adult wage as well. Thus, the poor farmworker family is often forced to acquiesce in the exploitation of their own children because of the meager wages received by the family's adult workers." (Senate Report No. 93-690, pp. 30-31).

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[1] In Washington in 1973, 74 percent of the farm labor force consisted of local workers. In Oregon in 1967, 80 percent of the total farm labor force in Willamette Valley consisted of local workers.

[2] A case study of 17 families which had settled out of the stream, conducted by the Employment Security Division of the Washington State Employment Service in 1968, found that the average yearly income for a settled-out family of 7½ persons was $5,000. Sixty-five percent of that income was from farm labor sources and 35 percent from nonfarm labor sources.

By enacting the proposed exemption, this third purpose of Congress, to end economic exploitation, will not be implemented. As long as plentiful child labor is available, the wages of the adult laborer will not increase.

To decrease the wages of the migrant family by prohibiting the migrant children under 12 from working without a concomitant increase in wages for the adult is cruel beyond belief. The Congress cannot ask the migrant family of 7 which subsists on an average yearly wage of $2,800 to exist on any less. The migrant worker will be forced to violate the law and there can be no realistic expectation on the part of Congress that the law will be enforced. It is practicably impossible to determine whether a 10-year-old child working in a strawberry field is from Salem, Oregon, or Muleshoe, Texas.

To the extent that support for the exemption rests on the need to compete with cheap labor in Mexico, as implied by Senator Packwood (*C.R.*, Feb. 26, 1975, No. 30), the exemption must surely fail. Congress long ago determined that the American labor force was entitled to a minimum decent standard of living regardless of the ability of the American laborer to compete with cheap foreign labor. Surely, the American child will not be exploited to compete with cheap Mexican labor.

One can only conclude that the proposed exemption will cause severe harm to both the migrant and the seasonal farmworker. The families of migrant workers will earn less than they need to survive and the children of local seasonal workers will be subjected to exploitation—the long, hard days of child labor. Were the law to remain in its current form, neither of these problems would arise. To argue that these dire consequences are necessary in order to provide middle-class children with the ability to earn spending money for bicycles is to demonstrate an extreme insensibility to the plight of the poor and the farmworker.

THE FORGOTTEN ONES

(By Rudy Arredondo)

A child carrying the burden of a man
  No time for toys or worldly pleasures in this plentiful land
No nice home with a beautiful green front lawn
  Only field after field to harvest and scorn

Beautiful potatoe crop up in Idaho
  Plenty of oranges in Florida groves
Ohio sugarbeets and tomatoes are good people say
  But we must wait until April or early in May

A child is born and there seems to be hope
  for these couple of kids the present seems easy to cope
"The future seems blurry for me to advance
  But maybe my son can at least have a chance

We must get busy and work very hard
  To provide for his needs and make his future bright
God cannot forsake him at this early stage
  To help mold his future when he comes of age

Now I am old and my son's at my side
  What went wrong? I just can't decide
It seemed only yesterday I held him you see
  Now he is a young man and works alongside of me

His mother is gone and in a way I am glad
  She can't see the tears I shed nightly in my shack
God, why have you forgotten us? I don't understand
  Aren't we human like any other man?

I must get some sleep and much needed rest
My strength seems to be leaving me I don't feel my best
The fields are out there waiting; no end seems in sight
To my daily toil from morning till night

But we must get busy and work very hard
To provide for my Grandson and make his future bright
God cannot forsake him at this early stage
To help mold his future when he comes of age."

A LOST CHILDHOOD

(by Rudy Arredondo)

Up at dawn, to the camp at dusk
His clothes filthy from pesticide dust
He looks so thin and underfed
Could it be the lack of Bread?

During the day he bends and stoops
And the row grows longer with each look
As the sun sets with each passing day
He wonders when there'll be time to play

Passing suburbia in the back of a truck
He sees children playing in their back yards
He wonders out loud, "How can that be?"
"Why can they and why not me?"

Five years, twenty years have now gone by
And where is that child who dared ask "why?"
He grew up in the fields, using his hands
He was never a child, he was a man

Ms. GUIDO. I would like specifically to talk about our concerns here which is with the adverse impact that the legislation is likely to have on two groups of workers that we represent. The one group are migrant farmworkers and the other group are the children of settled-out migrants and other seasonal farmworkers.

The children of settled-out farmworkers and others will suffer the often-told abuses which an underpaid, overworked child working out of financial necessity is forced to undergo. The migrant and his family will suffer from the discriminatory economic policy which permits local but not migratory child labor to work in the fields.

This subcommittee, I believe, is mistaken if they believe that the proposed legislation will only permit the happy-go-lucky, middle-class child to labor in the fields. It is not only the bicycle children going to work voluntarily with their friends to earn money for a horse or a bicycle who will be permitted to work, but also their ragamuffin counterparts—the poor Chicanos and Russians; the children of migrants who have settled out but are still barely ekeing out an existence in seasonal farm labor.

There is a footnote in this statement referring to some of the statistics—the seasonal farm labor force does not earn considerably more than the migrant farm labor force. The average yearly wage of all seasonal farm laborers including migrants is $2,533, while the average yearly wage of the migrants is $2,873.

A study in Washington found that settled-out migrants—a family of seven was earning approximately $5,000 which is, in fact, an improvement over the $2,500 earned by a family of seven as migrants, but I certainly do not think it is very high.

Mr. MEEDS. Could you tell me where it is higher? The settled-out migrant family of seven?

Ms. GUIDO. I don't believe, Mr. Meeds, that the $5,000 figure is necessarily higher in other areas. I think it is just significant to note that we are talking about a family of seven that is living on $5,000.

Mr. MEEDS. I understand, but it isn't, I don't think, any different any place from Washington.

Ms. GUIDO. No. I believe that probably settled-out wages is the same.

Mr. MEEDS. Thank you.

Ms. GUIDO. The child of the settled-out migrant or the poor Russians in Oregon—the child of poor Chicanos in both Washington, and Oregon, and other parts of the country, is forced to work long and hard to support his family It is precisely this type of work which will be permitted under the proposed exemption, which Congress sought to outlaw. It is the poor child who—apart from the inherent dangers in agricultural work—suffers most from child labor. Many of these children bring to the fields malnourished and poorly developed bodies. They bring a sense of urgency about contributing to the family income. Finally, because of economic pressure and poor educational history and motivation in the family, they tend to give work precedence over school.

Recently, in Woodburn, Oreg., where the school board voted against establishing a 12-month school program after submission of a petition by the Russian community that their children would work during the summer harvest months.

The experience of a child forced to work out of economic necessity is eloquently described in the attached poems by Rudy Arredondo, a former farmworker who worked in the fields as a child.

I believe that this subcommittee is attempting to protect the migrant in outlawing the labor of children under 12 who are migratory. Unfortunately, I don't believe that that result will follow.

The 1974 amendments, in outlawing all child labor under 12, were intended to deal with the adverse economic impact upon poor migrant families who would suffer the economic loss of their children's wages. It was believed that as a result of the ban on child labor, the adults' wages would increase.

In enacting the 1974 amendments, the Congress stated that there were three reasons why child labor must be ended. The third reason was that child labor "* * * is, as was industrial child labor years before, economic exploitation of human resources."

To Congress, it was:

> . . . clear the employment of children in agriculture is not only a direct source of cheap labor, but has the effect of depressing the average adult wage as well. Thus, the poor farmworker family is often forced to acquiesce in the exploitation of their own children because of the meagre wages received by the family's adult workers.

By enacting this proposed exemption, before this subcommittee today, the third purpose of Congress, to end economic exploitation will not be implemented. As long as plentiful child labor is available, the wages of the adult laborer will not increase.

To decrease the wages of the migrant family by prohibiting the migrant children under 12 from working without a concomitant increase in wages for the adult is cruel beyond belief. The Congress cannot ask the migrant family of seven which subsists on an average yearly wage of $2,800 to exist on any less. The migrant worker will be forced to violate the law and there can be no realistic expectation on the part of Congress that the law will be enforced. It is practically impossible to determine whether a 10-year-old child working in a strawberry field is from Salem, Oreg., or Muleshoe, Tex.

To the extent that support for the exemption rests on the need to compete with cheap labor in Mexico, as implied and specifically expressed by Senator Packwood in the Congressional Record, the exemptions must surely fail. Congress long ago determined that the American labor force was entitled to a minimum decent standard of living regardless of the ability of the American laborer to compete with cheap foreign labor. Surely, the American child will not be exploited to compete with cheap Mexican labor.

One can only conclude that the proposed exemption will cause severe harm to both the migrant and the seasonal farmworker. The families of the migrant workers will earn less than they need to survive and the children of local seasonal workers will be subjected to the exploitation of child labor. Were the law to remain in its current form. neither of these problems would arise. To argue that these dire consequences are necessary in order to permit middle-class children to earn spending money does not seem justifiable and does not seem to take into consideration the interest of the poor, the migrant, the powerless, and the farmworkers.

STATEMENT OF RUDOLPH ARREDONDO, PARALEGAL ASSISTANT, MIGRANT LEGAL ACTION PROGRAM, WASHINGTON, D.C.

Mr. ARREDONDO. My name is Rudolph Arredondo. I am a paralegal assistant with the Migrant Legal Action Program in Washington, D.C.

I sincerely wish that I could state that it was a pleasure to be here before you at this time. But, unfortunately, that is not the case. I am here to voice my strong opposition to the particular piece of legislation being considered here today.

It abhors me to know that you gentlemen are even considering such a horrendous proposal, namely allowing children under 12 years of age to work in the fields when, according to the 1969 report by the Department of Labor, agriculture ranks second only to the construction industry in the number of job-related deaths. Furthermore, in October 1970, a report by the Senate Committee on Public Welfare stated that 800 deaths occurred out of 80,000 cases reported involving the use of pesticides in agriculture.

Is that what this subcommittee wish to expose children to?

As Ms. Guido stated, I am a former migrant farmworker. Because of economic necessity, I had to go work in the fields and help my parents at the age of 5—my sister was 4—and continued to do so until my graduation from high school in 1961.

The whole experience has embittered me and has left a very distinct scar in my life, perhaps more visible here today than at any other time. During my entire experience as a migrant, numbering approximately 14 years, I never once saw a school official or a Wage and Hour officer in the fields in an attempt to find out if the child labor laws were being adhered to.

I thoroughly understand that in the proposed legislation migrant children will be excluded from working in the fields. However, unless there has been some miraculous conversion on the part of the growers that I don't know about, there is and will continue to be noncompliance with the child labor provisions of the Fair Labor Standards Act. Their very opposition to the child labor exclusion should indicate that they are not presently complying with the law.

If those who are entrusted with enforcing the law choose not to do so, what assurances can anyone give me here that they will enforce this particular law, if enacted? How are they going to distinguish migrant from nonmigrant children? Is it going to be enforced by the color of their skin?

Out of my experiences and observations as a migrant, I have written two poems which Ms. Guido has introduced for the record. The one I am about to read was written in 1959 at the age of 17. I am sure it was written more of frustration than out of inspiration.

THE FORGOTTEN ONES

A child carrying the burden of a man
  No time for toys or worldly pleasures in this plentiful land
No nice home with a beautiful green front lawn
  Only field after field to harvest and scorn.

Beautiful potato crop up in Idaho
  Plenty of oranges in Florida groves
Ohio sugarbeets and tomatoes are good people say
  But we must wait until April or early in May.

A child is born and there seems to be hope
  for these couple of kids the present seems easy to cope
The future seems blurry for me to advance
  But maybe my son can at least have a chance

We must get busy and work very hard
  To provide for his needs and make his future bright
God cannot forsake him at this early stage
  To help mold his future when he comes of age

Now I am old and my son's at my side
  Who went wrong? I just can't decide
It seems only yesterday I held him you see
  Now he is a young man works alongside of me

His mother is gone and in a way I am glad
  She can't see the tears I sheld nightly in my shack
God, why have you forgotten us? I don't understand
  Aren't we human like any other man?

I must get some sleep and much needed rest
  My strength seems to be leaving me I don't feel my best
The fields are out there waiting; no end seems in sight
  To my daily toil from morning till night

But we must get busy and work very hard
  To provide for my Grandson and make his future bright
God cannot forsake him at this early stage
  To help mold his future when he comes of age.

Mr. Hatfield in his statement introducing his bill and printed in the Congressional Record stated he had received 1,200 letters from children who said they would not be able to buy bicycles and clothes for school.

I wonder if Mr. Hatfield or anyone else here present today would be able to suggest what I am supposed to tell the migrant who will inadvertently ask me this summer—Why can white, middle-class children work in the fields and not mine? Is their need for bicycles and clothes greater than our needs for food and in trying to provide someone in my family with the opportunity for a better life?

In addition, I would like to know if anyone of you gentlemen received letters from migrant children stating their point of view on this particular piece of legislation.

If you haven't I can explain to you why. They are by comparison to their nonmigrant counterpart, illiterate because they must work in the fields and their educational curriculum is for the most part inadequate. Nor, was there any organized letterwriting campaign to their Congressmen. They are no one's constituents.

In conclusion, I would like to leave this thought with you today:

Does this subcommittee wish to go on record as being the procurer or more emphatically, the pimp of modern day child labor for catering to special interests whose only concern is to continue the use and exploitation of cheap labor at the expense of children with congressional consent?

Let children be children. Childhood is altogether too short a time to impose the burden of adults upon them.

Thank you, very much, gentlemen.

Mr. FORD. Thank you, very much. I want to compliment you on your very articulate and certainly very obviously sincere and strongly felt statement.

It may come as a surprise to you but I doubt very much if you will find any quarrel with any member of this committee present or not here today on the basic premises that you so well set forth, both in your statement and in your poetry. That has been included in the record.

Mrs. Guido, I have only one problem with your statement. Again I have to say that there is very little in the substance and intent of the statement that any of us would quarrel with, except that you have me a little bit puzzled about what seems to be an inconsistency in developing your principle here. On the one hand, you say that you have concern primarily with two children—the migrant and the settled-out migrant. Then you proceed in your statement to point out that the settled-out migrant child could conceiveably be forced, by the economic conditions of his family, to be the subject of the exception being permitted under this act, and that that would not be a desirable thing. In other words, it would not be desirable to permit the settled-out migrant child to work under the age of 12.

Ms. GUIDO. That is correct, Mr. Chairman.

Mr. FORD. But, then you go on to say that the law is discriminatory because it would permit the resident child to work and would not permit the migrant child of 12 to work. That puzzles me. It is either desirable or undesirable for a low-income child to be permitted to work. On the one hand you suggest that, even though there is a residence requirement and so on, the very poor segment of the community would be the ones where the children would, by force of economic conditions in the family, have to work. And they wouldn't be, as you have described, happy middle-class kids working for a bicycle, but children who had a strong burden of the knowledge that their income, whatever it might be, is necessary for the family's sustenance. Then you carry that over to the idea that that same feeling would be in the minds of parents and the children of migrants.

Now, which way should we go?

Ms. GUIDO. I understand your problem, Chairman Ford. On the face of it there appears to be some conflict in the statement and I think there probably is some conflict to the extent that child labor legislation is kind of like castor oil—to a very poor family, such as the migrant family that is forced to use their children in the fields—to tell them that that is no longer permitted under law is a mixed blessing.

The migrant family really needs that money. Perhaps if we tell that migrant family that their wages will be increased because child labor will cease in that particular area they will not be as unhappy at losing the wages from their own children.

Mr. FORD. Describe that mixed blessing with respect to the settled-out migrant or other indigenous poor people.

Ms. GUIDO. The settled-out migrant under your proposed exemption would be permitted to work assuming that the law were to go into effect as it is now written—the child of the settled-out migrant would not be permitted to work—that particular family would not have the wages of their children. However, as is true for the migrant family there is an expectation and there is evidence to believe that the termination of child labor will result in—perhaps not this year, perhaps next year—in an increase in the wages in that area and/or an increase in the amount of crop that would be picked, which would also lead to an increased wage for the adult.

Mr. FORD. Do you mean to say that the settled-out child would not be able to work or would be able to work?

Ms. GUIDO. Under the law in its present form, no child under 12 would be permitted to work. That would include the settled-out migrant. The parents of the settled-out migrant would, we believe and my understanding is—Congress believed—have an increased wage, as would the parent of the migrant child.

Mr. FORD. We are having some difficulty—I am—in understanding the statement you make here that a settled-out migrant as categorized by you is presumptively a poor child. My concern with all of this legislation goes beyond the former status of that child as a migrant child. It goes to all poor children. Now, in your statement you talk about the contrast between the number of seasonal workers who are migrants and the number of seasonal workers who are not classified as migrants. We all know that those percentages have constantly been changing so that the migrant represents a smaller percentage all the time, notwithstanding the impact of other things like automation.

So, if I understand you correctly, you are stereotyping—I am not quarreling with this—a settled-out migrant child as a poor child likely to be compelled by economic conditions to work whether he wants to or not.

Ms. GUIDO. That is correct.

Mr. FORD. And I assume that you agree with me that that is also true of the job of the seasonally employed farm worker who may never have been in the migrant stream.

Ms. GUIDO. That is correct.

Mr. **Ford**. So, for purposes of determining how we consider the status of that child, you see no distinction at this point between the child who formerly was a migrant and one who may have traveled hundreds of miles within a State and not classified as part of the migrant stream?

Ms. **Guido**. That is correct.

Mr. **Ford**. I think everybody understands that that is the kind of child who is likely to be exploited in every conceivable way—neglected in every conceivable way. The Poverty Programs, for example, were structured in a way—but for the afterthoughts of the action of this committee in amending those bills—so that migrants wouldn't really have been in a position to participate. Migrants don't frequently find themselves on community action programs advising the programs. So, citizen participation has never really meant very much to the migrants, has it?

Ms. **Guido**. We know that all too well.

Mr. **Ford**. It has been the action of this committee to go back and try to patch into that the understanding of the peculiar situation that it attaches to it.

Ms. **Guido**. This committee's efforts have been commendable.

Mr. **Ford**. Now, all I want to do—Mr. Meiklejohn's position was consistent to the extent that he says no 12-year-olds should be working for wages. Whether you agree or disagree with that, it is a consistent position.

But you take the position with us that, if you are going to permit some 12-year-olds who presumably—it is intention of the author of the legislation to limit it to those not likely to be exploited because they are a part of a mix of a local community—you should also extend that exemption to people who are likely to continue to be exploited: The migrant child and the poor child.

Ms. **Guido**. Chairman Ford, I perhaps have not explained my position well, but I believe it is the exact opposite of what my intent would be. My intent would be to retain the legislation in its current form so that no child under 12 would work. That would include the child of the seasonal worker as well as the child of the migrant.

Mr. **Ford**. Mr. Quie?

Mr. **Quie**. No questions.

Mr. **Ford**. Mr. Meeds.

Mr. **Meeds**. I would just ask both of you—you are in favor of the present law which exempts all of the children under the age of 12.

Mr. **Arredondo**. That is correct.

Mr. **Meeds**. Including migrant—

Ms. **Guido**. Do you want to restate your question?

Mr. **Meeds**. Yes. Exempt is not quite right. Which provides that no children under the age of 12 can be engaged in agricultural labor including migrants.

Ms. **Guido**. That is correct.

Mr. **Meeds**. In what way does this legislation change the status of migrants from what you are talking about?

Ms. **Guido**. That is quite simple, Congressman Meeds. If child labor under 12 were to be prohibited totally as it is under the current legislation, the likelihood is that wages would increase in the State of

Washington, for instance. If wages were to increase, then the migrant adult would earn more than if child labor is permitted.

Mr. **Meeds**. I have a little trouble with your rationale. I will try one more time. Is the status of migrants insofar as working in agricultural labor—is it changed by this bill?

Mr. **Arredondo**. To the extent the DOL has chosen not to enforce the child labor provision.

Mr. **Meeds**. All right. At least for the purpose of my question—the laws that are written are enforced. Pardon me, just a minute.

Let's just assume that laws that are written are enforced. I know they are not enforced all the time, but let's assume for the purposes of this question that the laws that are written are enforced. Now, is the status of migrants in their ability under the age of 12 and their ability to work in the fields in any way changed by this law? This proposal?

Ms. **Guido**. The ability of the child to work under 12—that particular provision is not changed by your exemption.

Mr. **Meeds**. Thank you.

Mr. **Ford**. Anything else?

Mr. **Quie**. No.

Mr. **Ford**. Thank you both very much. We appreciate that you indicated your willingness to come on such short notice to assist us in building a record. The record is open if you wish to submit anything further. I will invite you as I have previous witnesses to suggest to us—you didn't address yourself to it—but almost everyone else has suggested as I did in the hearings in Washington that, while everything might be fine in western Washington and Oregon, we have to worry about the entire country. Certainly, in your position you might be able to suggest what the Labor Department and what the AFL-CIO has not, where we ought to look for the potential abuse.

Ms. **Guido**. In that connection, Mr. Ford, I would like to add one thing—it is my understanding that last summer in the State of Michigan there was some enforcement on the child labor provisions. Apparently the children were very easy to identify because they were smaller than the adults and that provisions under the minimum wage enforced prior to the court order in *Kelly* v. *Brennan*.

Mr. **Ford**. You see, that is one of the problems we have. It is your impression—but we have just checked as recently as this morning with the Michigan Department of Labor. The department of labor representative for Michigan has no recollection of a single violation being processed in the State of Michigan. That is what bothers me because I know that child labor is very extensively used in Michigan. My first experience in this area was spending two summers with the migrants starting at the age of 14 and nothing has changed very much in regard to the kind of people that you see harvesting in Michigan.

It goes beyond strawberries. I know that it has been a consistent and constant practice, and we can't find that anybody has violated the Michigan law or the Federal law. The Michigan law has always prohibited this.

But, if you could come up with something, even in Michigan, you might suggest to us your sources of information, where there are violations going on, and at the very least we coud ask the Labor Department to tell us why nothing is being done about it.

Ms. GUIDO. Thank you.

Mr. FORD. The next witness is Father James Vizzard, Washington Representative, United Farm Workers Union, AFL-CIO.

Without objection, Father Vizzard's statement will be inserted at this point in the record. You may proceed.

STATEMENT OF FATHER JAMES VIZZARD, WASHINGTON REPRESENTATIVE, UNITED FARM WORKERS, AFL-CIO, WASHINGTON, D.C.

Father VIZZARD. Thank you, Mr. Chairman. Since I wasn't able to complete this statement until late last night, I haven't memorized it, so I had better read it.

For the record, my name is Father James Vizzard. I am the legislative representative for the United Farm Workers.

Mr. Chairman and members of the subcommittee, I am unhappy to find myself here today speaking in opposition to a bill proposed by Mr. Meeds, and apparently supported by Mr. Ford, both of whom deservedly are considered to be understanding and supportive of the farmworkers' struggle for justice.

Still, I must state that the United Farm Workers, AFL-CIO, is strongly opposed to H.R. 632 or any hurriedly revised version of it. Moreover, we are amazed at the report that there is to be a markup on the bill immediately after this hearing.

In my 23 years of testifying before congressional hearings, I have never before been aware of such unseemly haste in dealing with proposed legislation. I've always assumed, perhaps too naively, that some little time was needed after a hearing so that, at the minimum, a transcript could be prepared for the consideration of committee members necessarily absent. I've also thought, apparently erroneously, that a deliberative body actually deliberated, or at least made a show at doing so.

Thus, one unavoidably has a feeling of futility in testifying when the issue seems already to be moot. Nevertheless, I judge that we must express our views in the hope that when the matter comes before the full committee, all members will have the opportunity to know where we stand.

Let me start by saying that at a time when unemployment everywhere is so high, but nowhere as high as in agriculture; when so many jobs in the fields—and elsewhere—are being preempted by exploitable and exploited illegal aliens; when Congress, reflecting the developed convictions of our American society, only a year ago declared it to be public policy and law that little children should not work in the fields; when the law already is working a hardship on many migrant families who, as things are now, need the pittance their children can earn; at such a time it seems to us to be outrageous that we should have to be dealing with the proposal that a certain few favored growers be allowed to continue flooding their fields with 8-, 9-, 10-year-old kids whose seemingly most urgent need is money, not to put food on the table, but to buy 10-speed bikes.

Moreover, and to be more particular, it is the intention and expectation of the United Farm Workers to organize farmworkers throughout this land. Notwithstanding the well-circulated reports of our imminent or actual demise, we are confident that in the near future our California base, so brutally assaulted by the iniquitous grower-Teamster alliance, will be fully and firmly restored. Thereafter, the neighboring States of Oregon and Washington most certainly will receive our early attention. When we arrive there, are we going to have to try to organize 8- and 10-year-old kids—or to deal with them and their parents and schoolteachers as scabs? Isn't that what would happen if H.R. 632 or anything like it should be approved? Rather than lowering the age at which kids can work in the fields, Congress should be raising it to, say, 16 as it is now in our union.

When we do organize in Oregon and Washington—and elsewhere—one thing is sure: There won't be any kids in those fields. Our philosophy—which seems to be shared in this country almost everywhere except in agriculture—is that the breadwinner of the family should be able through his or her honest labor to support the whole family in dignity and decency. That's what our union aims to achieve for all farmworkers, and no matter how long we have to struggle for it, we will achieve it—and sooner than many people think.

So we would suggest to those growers who even at this late date are reluctant to join the 20th century, that they start right now establishing their farm operations on the basis of well-paid adult labor, that they not seek to have honorable Congressmen reverse the course of equity and justice for farmworkers.

If anything I have said so far has raised a few hackles, what I am about to say now might well complete the job. I have studied the transcript of the hearing held in Burlington, Wash., on February 8, 1975 (though I still cannot discern precisely which subcommittee conducted that hearing). From that record I learned that in the areas which would be affected by the proposed legislation, the great majority of the berries are processed. It was also brought out there that no matter what Congress might do on this bill, the cost of sugar in this country and competing production in Mexico will soon force a shift away from berries in any case. As one who has witnessed and agonized over the extreme poverty and the lack of jobs which burden so many of our brothers and sisters in Mexico, I can see good rather than harm in the impending shift of this kind of production to south of the border.

A careful reading of the February transcript clearly indicates two things to me: (1) The growers there feel that they do have viable options, they could shift to other crops; and (2) the kids who presumably will lose those short-term jobs won't go hungry or unclothed; they seem to have nothing to lose but those 10-speed bikes. From my way of looking at things, the gain to Mexican people would far outweigh any loss to American kids. I am not against kids having expensive bikes or their helping to pay their way through school. But most Mexican kids don't have bikes, and they don't have decent clothes to wear to a decent school. Moreover, if we help create more jobs in Mexico, perhaps there'll be less pressure for illegals to come here to take our jobs.

There are three other points I want to cover in this statement. First, I doubt that anyone would seriously attempt to argue in 1975 that child labor does not tend to hold or drive down wages. Second, may we once and for all dispose of the myth that by the design of God or nature, "little" people—Chinese, Japanese, Filipinos, Hindus, Arabs, Mexicans, or 8-year-old Americans—are meant to harvest low-lying crops? Finally, I would like to ask my friends on this subcommittee—I hope you still are my friends—if you are fully convinced that opening a crack in the child labor law, such as this bill proposes, will not thereby throw the door wide open to exemptions elsewhere or even to constitutional challenge? It is my conviction that that is precisely what would happen.

With your permission, Mr. Chairman, I would also like to read and enter into the record a resolution that was passed at the recent Rural America Conference held in Washington, which ended just yesterday afternoon, at a session which I impartially chaired and on which your counsel was expected to be a member of the panel—but he was occupied by your needs.

The following resolution was unanimously passed and I was requested to submit this to you.

> The First National Conference on Rural America, meeting in Washington, D.C., April 14th to 17th, 1975, submits the following statement for your urgent consideration. 1) We strongly oppose the Hatfield and Meeds bills and any other proposal to weaken the current provisions of the Fair Labor Standards Act which prohibits the employment of child labor under the age of 12 in commercial agriculture.
>
> 2) We call upon the Congress of the United States to resist all attempts to subsidize further commercial agriculture through the labor of children. We take the position for the following reasons:
>
> a) the employment of children under 12 has a depressing effect on the wages of adults.
>
> b) farming is the third most hazardous industry in the United States.
>
> c) the impact of pesticides and other working conditions has a serious effect on the health and safety of children and affects their health for years to come.
>
> 3) Further, we call upon Congress to provide the day care facilities needed by families for the care of their children during the hours they work to harvest our crops.

Mr. Chairman, I would be pleased to respond to any questions that you or other members of the committee might have.

Mr. Ford. Thank you very much, Father Vizzard. The work that you have been doing so diligently and for so long is well known to most all of the members of this committee. Your constant and sincere efforts on behalf of, not only those people who are represented by the United Farm Workers whom you speak for here today, but everyone who benefits directly or indirectly from the efforts of that great organization and Mr. Ceasar Chavez, makes it very difficult to even imagine the circumstances where the chairman of this subcommittee and the witness now before us would find themselves in even the slightest disagreement.

Hopefully, while we may be apparently at odds about specifics, we continue to be in agreement about the basic principles. And hopefully, while you, unlike the people in the State of Washington, perceive me to be a friend of the legislation—I think, if you read the hearings, as I know you did, you will find that they were not at all happy with the chairman of the committee out there. For the record, I might say that it was a joint hearing between the Dent Subcommittee on Labor Standards and this subcommittee, because at that point we still had a question of where jurisdiction for this was going to be.

That subsequently was resolved by Mr. Dent having more seniority and being skillful enough to dump it in my lap. It is not a pleasant prospect, I might say.

I hope, however, that this committee will continue to demonstrate the proper sensitivity to try to come up with a recommendation for the full committee, whether it be for adoption of the legislation or not, that will reflect credit.

Finally, I might say that this is the first time since this committee was created that we have been accused of moving too fast.

For the record, I have prepared for us today a summary of the hearings that have been held on this subject. This will be an ample bibliography for those who want to take the time, as it has been suggested, to see that not only House committees, but Senate committees have concerned themselves specifically with the issues raised by this legislation, both in hearings here in Washington and in other parts of the country, particularly as you might expect, Oregon and Maine.

It is our intention to continue to learn about these things. I find myself under, however, the constraint of time that dictates that, if I am not to appear to be too unfriendly to the other point of view with regard to the legislation—time makes the difference. If we do not act and submit this to the full committee, if that be the will of this subcommittee, very promptly, the question becomes moot. I think the question is serious enough so that it ought to be decided, one way or another, and I know that my colleagues on the Education and Labor Committee, and perhaps ultimately in the House, are not going to be pleased that I gave them the opportunity to pick up this cactus and try to carry it. There will be a lot of people looking for a way to vote "present."

With that, I would ask unanimous consent that the summary of hearings held on this be inserted into the record, and call on Mr. Quie.

[Material referred to follows:]

STAFF MEMORANDUM

Following is a brief summary of five hearings which have been conducted by various Subcommittees of both the House and the Senate during the past seven months relating to the subject matter of the legislation before the Subcommittee today:

Hearings on legislation to amend the Fair Labor Standards Act of 1974, House General Subcommittee on Labor, Washington, D.C., October 3, 1974, containing the views of seventeen Members of Congress on various proposed changes in the child labor provisions. Three members, Mr. Meeds, Mrs. Green and Mr. Ullman, favored changes in the provision prohibiting the employment of children under the age of 12 in agriculture in certain limited circumstances.

Oversight hearing on the Fair Labor Standards Act, House General Subcommittee on Labor, Portland, Oregon, November 14, 1974, containing statements of strawberry growers, processors and pickers, a representative of the Oregon Employment Division, a representative of the Oregon Occupational Health Section generally favoring a change in the child labor provisions relating to agriculture. Testifying against a change in the law was a representative of the Oregon Chicano Concilio Child Labor Committee.

Hearing on the Agricultural Child Labor Provisions of FLSA, 1974, Senate Subcommittee on Labor, Portland, Oregon, December 6, 1974, containing statements of growers and processors, the Political Director of the Joint Council of

Teamsters, the Vice President of the Oregon Farm Bureau Federation generally favoring a change in the provisions. Testifying against a change in the law were an Oregon State legislator; a representative of the Oregon State Chicano Concilio; Ron Taylor, author of Sweatshops in the Sun; a counsel for the United Farm Workers Union; the area director of the Washington County migrant education program; a private citizen and the Speaker of the California Assembly.

Hearings on Child Labor Provisions of the Fair Labor Standards Act, Senate Subcommittee on Labor, Presque Isle, Maine, January 16, 1975, containing statements of potato farmers, representatives of the blueberry industry, the State Labor Department generally in favor of changes in the provisions relating to agriculture. Testifying against such changes were two representatives of the National Child Labor Committee.

Legislative and oversight hearings on the child labor provisions of the Fair Labor Standards Act, House Subcommittees on Labor Standards and Agricultural Labor, Burlington, Washington, February 8, 1975, containing statements of a representative of the Farm Bureau Federation, representatives of growers and processors, a representative of a Teamster Local, a State Senator, local education officials, a juvenile probation officer, a representative of the Washington State Extension Service, civic leaders and church groups favoring a change in the provisions relating to agriculture. Testifying against such changes were the counsel for the United Farm Workers Union and a representative of the Northwest Chicano Health Task Force.

Mr. QUIE. Thank you, Mr. Chairman. Just a few questions, Father Vizzard. You indicated—and this is to pursue your philosophy on the child labor legislation, because I assume that the law presently is not adequate—the changes you would like to have would be to further preclude young people from being employed.

Father VIZZARD. I don't want to speak to that question except as it refers to commercial agriculture. In that regard, yes. Our union will not allow children under 16 to work in the fields where we have contracts. We will not allow a child under 16 to be a member of our union. We believe that agricultural work is work for adults and that it ought to return them an adequate income and living.

Mr. QUIE. So, as far as agriculture, then you would prefer to have the law preclude employment below the age of 16—16 is all right, but 15 and below. Is that what we are talking about?

Father VIZZARD. Yes.

Mr. QUIE. How do you arrive at the age of 16? When you look at mankind through its history, a person did something worthwhile to himself or his tribe or his community about the time he went through puberty and puberty is a little earlier than 15 or 16.

Father VIZZARD. They could start by washing the dishes at home, for instance, and perhaps growing a vegetable garden in the back yard. There are a lot of other things that a kid can do outside of working for wages in agriculture.

Mr. QUIE. But your experience with children is that when they are washing the dishes at home or mowing the yard without pay, or working in a vegetable garden, it does not bring the feeling to them as being employed by someone else. I have found that if my children go next door to mow the yard of my neighbor, they feel much better about it than if they do my own.

Father VIZZARD. I have no argument with the specific examples you are giving. Obviously, I am not objecting to that. I am objecting to the use of children in commercial agriculture except of course with the reasonable exemptions while working on their family farm or that of a close relative or something of that nature.

Mr. Quie. That is acceptable. The previous witness indicated he had no objection to a person working but working for pay was the objection.

Father Vizzard. And under conditions where they are easily exploited and are, in fact, exploited.

Mr. Quie. So, you would go further than just working for pay? You would add to it the business where they could easily be exploited.

Father Vizzard. I would go further than that. I addressed most of my remarks to the berry industry of the Northwest because the only research materials I had available immediately at hand in the very short notice for this hearing was the hearing held in Burlington, Wash. But, that is not the only problem, not the only area of the country to which this proposed legislation would apply. It would apply also in innumerable other contexts where there are obvious dangers to health and welfare of children, such as in potatoes, or God knows what else.

Mr. Quie. Specifically, to the strawberries, do you find it acceptable if they work on their family farm, or for a close neighbor, friend, or relative? Now, I assume if they work for a relative—let's use the similar thing of the strawberries—and they worked to pick strawberries on their farm, that they would be paid for it. Now, what is the difference between the relative and the other farm that is not a relative—both of them picking strawberries so we don't get into different crops?

Father Vizzard. One reason among many is that that kind of opportunity for labor would be relatively limited and it wouldn't involve large masses of child labor, whereas what we are talking about is large numbers of children working in these fields. And, as I said in my prepared remarks, it is precisely—at least I think it is settled by now—it is precisely the existence of large numbers of children in the fields that keep the wages down for adults.

Mr. Quie. Here you are being concerned about the adults. I recognize that. But, I mean for the child. The fact that they are with large numbers——

Father Vizzard. Even for the children that do work and work legally, the wages are kept down by the existence of large numbers of children.

Mr. Quie. But, I am talking about the problem of the child working with just a few of his relatives or on a relative's farm. There is nothing wrong with that. But, if you get to a larger group, bigger farm, that is where you——

Father Vizzard. That, and large areas.

Mr. Quie. Thank you. I just wanted to clear that up.

Mr. Ford. Mr. Meeds.

Mr. Meeds. Father Vizzard, I am sure that Chairman Ford joins me in agreeing with you when you say in your statement, "Second, may we once and for all dispose of the myth that by the design of God or nature 'little' people—Chinese, Japanese, Filipinos, Hindus, Arabs, Mexicans, or 8-year-old Americans—are meant to harvest low-lying crops."

You could also add the chairman and myself to that list. So, I am delighted to agree with that part of your testimony and I am not going to publicly disagree with such a magnificant human being and American who is concerned with Mexican children as much as he is concerned about American children.

Thank you.

Father **Vizzard.** May I make a few additional remarks on what I have heard this morning?

Mr. **Ford.** Surely, but let me first ask you if you will give us a little help in a specific area—aside from the legislation that is here. It is apparent to me, and I am not at all bashful about putting this on the record, that I had a repeat performance here this morning of what the Labor Department has brought to me each time they have appeared, and they are well-meaning people.

I take this occasion, not to point the finger at any individual at a way in which he or she is performing the job, but recently I had the unhappy situation of sitting here chairing a meeting on the problem of off-shore labor which happens to distress me a great deal. I found that they didn't have answers to the questions; that I could learn more from newspaper stories about what somebody thinks is going on than what anybody who is supposed to be enforcing the law knows about what is happening. Again, here this morning we have not only the situation of a new law that went on the books last May, but when we were talking, for example, about 265 violations. Some of those violations were previous violations because only those violations that would be in the category below the age of 12 would be new. Any violations involving a child over 12, presumably, are violations of conditions which were previously unlawful. They can't come up with a single instance to indicate why we are doing what we are doing or how we could better enforce the law.

Now, we do know that a number of the States have had a 12-year limitation—California, where your organization has had a great deal of experience, is one of them. What do we know about the way in which California has enforced this law? What is your impression of that?

Father **Vizzard.** You have given me a lead into one of the points I wanted to make very badly. As I observed on an occasion when I testified before this committee last year, you are under certain restraints. I don't feel myself under those restraints. I am going to be very, very blunt.

In my 35 years of association with farm labor problems it has been notorious from the beginning and to this very day that laws intended—well-intended—to deal with urgent and agonizing problems of farmworkers and migratory and seasonal laborers, have never been enforced.

There are at least 15 such laws on the books. None of them are enforced, including the one that you so carefully shepherded through Congress last year, the Farm Labor Contractor Registration Act.

I was present last year, when the Senate subcommittee had hearings out in Fresno, and we had a representative of the Wage and Hours Division of the Department of Labor as a witness. He testified that he alone had the responsibility for 9 counties, I believe he said, with over 9,000 farms. That was one man, and I think he did the best he could. Nonetheless, he had all these laws to supervise and enforce. He was frantic. He was resigning from the service precisely because he felt the futility of it all.

I also sat in 2 weeks ago when officials of the Labor Department put on a 2-hour briefing for an attorney, Mr. Ron Goldfarb, who is chairman of the Special Review Committee which was appointed pursuant to a consent degree from Judge Richey's Federal court which had found that the Labor Department was in fact not enforcing farm labor laws. The Labor Department was briefing him on what they were trying to do on a whole range of these laws, and in particular, in response to a question that he asked, what they had done to beef up their enforcement staff for the purposes of enforcing the labor contractor law. They said that they had added 18 or 20 new staff people to the 900-some Wage and Hour people throughout the country. In response to his further question, they admitted that these 18 or 20 people had no specific responsibility for enforcing the labor contractor law. They were just added to the vast pool of staff that handle and have all these laws to enforce. Moreover, they made a claim—one of the representatives of the Department of Labor made a claim—that they had so many thousands of inspections under the farm labor contractor law during the time since it became law.

I was given the floor at that point and I said, "Sir, do you mean that these were inspections exclusively devoted to the farm labor contractor law?"

He said, "Well, no. The agents had 12 laws to enforce." I said, "Well, do you mean that he walks onto a ranch and spends an hour or two hours and he is able in that time to fully satisfy himself that all of these laws are being adequately fulfilled—or, does it rather mean that he walks on there and reports that he has made 12 inspections?" He admitted that that is what happens.

He walks on there and performs 12 inspections—one for each of the 12 laws. I could carry on with many more specific examples, but I conclude by telling you this: That in all of my years of experience I have known it to be a fact everywhere in the United States that the laws relating to farmworkers are not enforced; that no serious and dependable data has ever been gathered; and that there won't be any enforcement until the Congress and the courts hold the feet of the Department of Labor and other responsible agencies to the fire and keep them there.

Mr. **Ford**. Thank you, very much. You said you had another point that you wanted to make?

Father **Vizzard**. I have a question—Is it possible at this time to inform us when the marked up bill would go to the full committee?

Mr. **Ford**. If, after it is marked up, it is reported by the committee, I don't know.

Counsel informs me that the next regularly scheduled meeting is 2 weeks from next Tuesday, unless there is a special meeting called of the full committee.

Father **Vizzard**. That is all I have.

Mr. **Ford**. Thank you very much, Father Vizzard.

Congressman Cohen of Maine.

STATEMENT OF HON. WILLIAM S. COHEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. **Cohen**. Thank you, Mr. Chairman. First let me express my thanks for allowing me to come over on such short notice to appear before you. I know the hour is late and frankly I was not aware that you were holding hearings on this issue which is of vital concern to the people in the State of Maine.

A few months ago the Senate Subcommittee on Labor, chaired by Senator Hathaway held hearings in our district on this subject trying to gain a perspective from people who this law affects and I would like with your permission to save time submit a statement that I offered to the committee at that time.

Mr. Ford. Without objection, the statement will be included in the record in full at this point, and also statements that were presented by Mr. Lowell D. Weeks, the executive vice president of the Maine Potato Council and William R. Malloy, employment service director, Maine Department of Manpower Affairs, be made part of the record.

[The material referred to follows:]

PREPARED STATEMENT OF HON. WILLIAM S. COHEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. Chairman, at the outset, I want to thank my distinguished colleague and good friend, Senator Hathaway, for inviting me to present a statement to the subcommittee. I also want to commend the chairman for his initiative in scheduling this hearing in Maine, thus providing those individuals most affected by the new child labor provisions of the Fair Labor Standards Act with an opportunity to be heard on this very important matter.

Since the chairman has provided us with an excellent overview of the issues involved in today's hearings, and later witnesses will undoubtedly devote considerable time to documenting the specific economic and employment impacts resulting from the recently adopted child labor provisions, my statement will focus on the broader questions raised by the employment of children under 12 years of age in certain agricultural operations. I believe that the major thrust of our efforts today should be to build a definitive record with regard to Maine's experiences in the employment of child labor in hand harvest operations—a record that will conclusively demonstrate to other members of Congress that the new child labor provisions of the FLSA are unduly restrictive and that some flexibility in the law is required to account for instances where oppressive labor conditions are not documented.

As one writer observed in a recent article in The Washington Post, one of our favorite American illusions is that passing laws always solves problems. We are, as the author of the article observed, a nation of laws—perhaps too many laws. Examples abound of well-intentioned statutes and regulations creating rather than solving problems, either through inflexibility, excessive restrictions, uneven application or passive enforcement.

Our presence here today is testimony to the fact that the unintended or unforeseen consequences of certain legislative enactments can and frequently do lead to real hardship and inequity and, in this specific instance, the disruption of a traditional pattern of employment for no discernible reason.

I certainly do not profess to be an experienced and seasoned veteran, as are many in this room, when it comes to harvesting Maine's all-important potato crop. Candidly speaking, the truth of the matter is that in recent years, my agrarian-related "experiences" have been largely confined to an infrequent swipe at the lawn when one of my sons balks at the task, an occasional visit to the produce counter at the supermarket, and a brief sojourn into Wilfred Saucier's New Canada. I fully expect that Lowell Weeks will seek to remedy this situation come September.

Seriously though, to a substantial degree, what we are attempting to do here today is to preserve an opportunity—an opportunity that in many respects represents a way of life in Aroostook County and in certain areas in the western United States. The evidence is strong that employment associated with the traditional hand harvesting of Maine's potato crop has had a constructive, healthy, and positive influence on the lives of many young people over the years. To be sure, this traditional activity has provided an invaluable social and educational experience for many children that could not possibly be garnered from a textbook or in a classroom. At the same time, the opportunity for children to earn a modest income while assisting the individual potato producer to harvest his highly perishable crop has clearly been of mutual benefit to both parties. Finally, the practice of using area children to assist in the harvest has served as an adhesive in strengthening community spirit and personal ties.

But the practice of employing children in agricultural operations, as Senator Hathaway has pointed out, has not always been the wholesome and constructive activity that has characterized Maine's experience. The cruel, exploitative, and inhumane treatment of many migrant children in other areas of the United States is well-documented. Tragically, a reign of physical and mental abuse has been visited upon countless children. Economic considerations have frequently run roughshod over personal liberties, human respect, and common sense. An environment of coercion and abuse has forcibly displaced reason, justice and dignity in far too many instances.

Clearly, each of us has an overriding moral obligation to put an immediate and permanent end to these practices, by providing these innocent and powerless victims with the greatest degree of protection possible. The adoption of the new child labor provisions to the Fair Labor Standards Act represents an attempt by the Congress to embrace and fulfill its responsibility in this regard.

If, as I indicated earlier in my statement, we are to conclusively demonstrate that Maine's experience with the employment of children in agricultural operations have not nurtured the personal abuses and indignities common in other areas of the United States, I believe that we must address ourselves to the following issues in this hearing:

The underlying justification for employment children in Maine's agricultural operations.

An extensive examination of the record in Maine with respect to reported instances of abuse and injury in the fields.

A discussion of the procedures employed by state and local officials to ensure the maximum protection is provided to the child working in the potato harvest.

The degree of direct adult supervision over children under 12 working in the harvest.

Are basic sanitary requirements provided for in or near the field? Water? Scheduled lunch periods?

What precautions are taken to ensure that children are not performing mechanical and physical work that could lead to a serious or disabling personal injury.

A determination as to whether any herbicides, pesticides, or insecticides are used in the field that could harm personal health.

The number of hours-a-day children normally work and the method of transportation to and from the field.

An exhaustive examination of whether or not the use of children in the harvest displaces able and willing adult workers.

The provisions that are made to ensure that the employment of children in agricultural operations in Maine does not interfere or impede the formal schooling process.

What percentage of the children under 12 employed in the fields are the sons and daughters of migrant parents.

In sum, I believe that we can satisfactorily address these concerns in this hearing, and that it is possible to provide for the protection of our young people working in the harvest without denying them the opportunity to work on the basis of age alone. Clearly, these are difficult times for the individual farmer, and every effort must be made to free him from cumbersome and unnecessary restrictions that unduly hamper his ability to produce. I am hopeful that this hearing will serve to provide the necessary impetus and justification for amending the child labor provisions of the Fair Labor Standards Act, or providing certain exemptions from its provisions where it is demonstrably clear that employment of children will not be physically or mentally harmful. For certain, we need some action in this regard well before the fall harvest, and I am prepared to work with Senator Hathaway and others to advance this goal.

PREPARED STATEMENT OF LOWELL D. WEEKS, EXECUTIVE VICE PRESIDENT, MAINE POTATO COUNCIL

Senator Hathaway, members of the sub-committee, ladies and gentlemen. My name is Lowell D. Weeks, Executive Vice President of the Maine Potato Council, Presque Isle, Maine. The Council is an association which represents every potato

grower in Maine who grows five or more acres commercially. Our mailing list currently show 1,340 growers representing, we assume, 1,000–1,100 farm units. (i.e. father/son, bothers, etc.).

The Council along with an apparently large segment of agriculture first became aware of and concerned about the Child Labor Provisions of the Fair Labor Standards Amendments of 1974, passed by Congress April 8, 1974 and effective May 1, 1974 as a result of a June 8, 1974 article in The Packer, a nationwide fruit and vegetable newspaper. Apparently neither the elected representatives or the Labor Department had recognized the implications or had begun the educational process up to that time.

We immediately began a two pronged effort (1) attempts at education and compliance, working with Mr. Philip Schilling of the Labor Department in Portland, Maine including media coverage and wide distribution of "parental permission slips" for growers employing children 13 years and under and (2) working with Senator Hathaway's office to attempt an amendment which recognized our rather unique student harvest labor situation. In conjunction with this effort, it was recognized that statistical data from either educators or growers was very inadequate on an Aroostook County-wide basis. We then proceeded to encourage and participate in most of the following resource documents cited as A through E which we would request be entered into the record.

A. Summary of Student Participation in the 1974 Aroostook County Potato Harvest (by School Superintendents in co-operation with the Maine Potato Council and summarized by Smith McIntire).

B. Harvest Labor Used in Maine 1974 Potato Harvest (by Maine Potato Council and summarized by Smith McIntire).

C. Call Summary WAGM Rado-TV "Potato Pickers Special" 1974 (5:00–7:00 a.m.) (9/16/74–10/19/74 summarized by the Maine Potato Council) .

D. 1974 Survey of Students Involved in Potato Harvest (summarized from A above by Frank Johnson of the Maine Department of Manpower Affairs).

E. Labor Replacement in Potato Harvest in Aroostook County (Johnston and Metzger).

According to the Statistical Reporting Service of USDA, Maine planted 142,000 acres and harvested 140,000 in 1974. It is generally held that 95% or 133,000 of these are grown in Aroostook County which contains a rather geographically separate 92.463 population. According to a Council survey it can be assumed 31% or 41,230 acres were hand harvested and 69% or 91,770 acres were harvested by mechanical harvesters (B, p. 1).

Aroostook enjoys but 115 frost free days per year on the average from planting to harvest. When one considers that the potato varieties grown here carry a maturity of from 90 (Superiors) to 120 (Russet Burbank) days, one readily recognizes the critical nature of the harvest season.

In view of the above, the availability of a labor force for an accelerated three to five week harvest season is important. In recognition of this factor, and further recognizing the economic impact of a basically one crop economy, a unique practice has evolved, that is a three week school harvest recess (A, p. 1). In 1974 students from SP–12 provided 13.656 of the estimated 22,000 laborers participating in the potato harvest (A, p. 3, p. 2). Significantly this provides a large resident labor force, returning home each night during the harvest.

Migrant labor, although at a much higher level in the past (E, Fig. 1) currently plays a rather insignificant part, with approximately 250 bonded Canadians and approximately 200–250 Canadian Indians participating in the 1974 harvest. This is due to a combination of government actions on the part of both Canada and the U.S. involving increased unemployment compensation, immigration restrictions and housing regulations. Housing requirements make the investment necessary to meet standards hardly economically feasible for only a three or four week period.

Mechanized harvesting has provided a notable change since its introduction in the 1950's. Harvester purchasing increased rapidly in the 1960's reaching a plateau of 1,100 in the period 1968–1972 (E. Fig. 2). The 1974 Council survey shows a projected figure of 1,300 harvesters in use (B, p. 1). It is very doubtful, unless major innovations occur, that mechanical harvesting will supplant hand labor 100% for the following reasons:

1. Due to the rolling hill character of Aroostook County, some land is not suitable for harvester operation.

2. The capital outlay necessary is becoming more prohibitive each year. The cost of an air separation harvester will approach $30,000 for 1975 if available.

Such a unit can harvest 125 acres and will be used three to five weeks only in the entire year. To this cost you must add a larger tractor $16–20,000, bulk truck bodies @ $2,000 per body, rock picker @ $4,000, plus an automated conveyor system for each potato storage.

3. Quality decrease in the harvested potato due to bruising is a problem which has resulted in an increasing number of growers either returning to hand-pick operations or combining harvester and hand-pick operations.

With the background properly set, the issue and subject of this hearing comes into focus as "What is the impact of the employment of under 12 year olds on the potato harvest in Aroostook County?"

(D.) Students in Grades SP–6 Involved in Potato Harvest, total Students SP–6=8,726.

SCHOOLS REMAINING OPEN DURING HARVEST (SP-6)

School	Grade	Number of students
Limestone	SP-6	1,300
Madawaska	SP-6	900
SAD No. 1—PI	SP-5	1,700
SAD No. 10	SP-6	30
SAD No. 32	SP-6	440
Total		4,370

Students unavailable for harvest (SP–6)=4,370.
Students reported working during the harvest (SP–6)=4,279.

	Total
Total students (SP–6)	8,726
Students unavailable (SP–6)	–4,370
Students available for harvest (SP–6)	4,356
Students reported working (SP–6)	4,279
Estimated number of students working in non-harvest jobs (SP–6)	–109
Total number of students working in the harvest (SP–6)	4,179

4,279÷3,356=98.2% of students (SP–6) available working in some capacity during the harvest.

4,179÷4,356=95.9% of students (SP–6) available working in the harvest.

It is undoubtedly difficult for an urban dweller to conceive of 98.2% (4,279) of the available 4,356 students sub-primary through grade 6 working in some capacity and 95.9% (4,179) working directly in the harvest. We would only direct your attention to the testimony of the parents and children following as well as the committee staff experience during the 1974 harvest in Aroostook.

Of the 13,653 students reporting harvest work, 8,745 or 64.3% worked at hand picking (A, p. 4). In fact, 3,174 or 37.5% were under 12 years old, SP–6.

Grade	Number of students	Percent of total picking
SP-3	1,048	13.1
4 to 6	2,126	24.4
Total	3,174	37.5
7 to 9	3,851	42.8
10 to 12	1,720	19.7
Total	8,745	100.0

Taking the 133,000 acres (95% harvested in Aroostook at a yield of 260 cwt. per acre or 20,957,575 barrels at 165 lbs. and assuming 31% acreage as well as 31% of the growers harvested with a hand crew B,p.1) or 6,496,848 barrels, the under 12 years olds amounted to 11.78% of the hand crews. These figures were arrived at by taking the total dollar figure of $306,154 (average amount earned for the SP-6) and dividing it by the average wage paid of $.40 per barrel thus yielding 765,385 barrels out of the 6,496,848 barrels hand picked. The piece rate per barrel and the wage rate for harvester work is the same for student or adult. Under 12 year olds must be allocated only against the hand picked portion of the crop as they can not by law work on harvesters.

The significant impact which would result from the removal of this segment from the harvest is evident.

We would submit the following summary of economic and social facts and benefits in conclusion.

A. 31.3% or 4,279 under 12 years old of 13,653 students worked during the harvest with 37.5% or 3,174 under 12 years olds of 8,745 students actually involved in hand picking 11.78% of the hand picked portion

B. Aroostook has in the past and presently experienced a nearly constant labor shortage. One merely has to view the WAGM call summary for one of the two "Potato Pickers Specials" begun some 12 years ago by Wayne Knight to attempt among other thing, to put available labor and growers together. The contrast between calls for labor and the labor offers is self evident.

C. The critical harvest period brought on by the average 115 frost-free days with a basically one-crop economy with varieties maturing in 90-120 days.

D. The unique, resident as opposed to migrant labor force.

E. The long standing tradition and life style of a school harvest recess allowing a unique out of school practicum of educational value involving in many cases the students first experience with his own money, the relative value of material things, the beginning of a bank account, providing his own clothes, bicycle, or possible start on a college fund.

F. The straight economic benefit to the child, aid to parents, and the $7.00 for every $1.00 spin-off benefit of $2,785,295 spent, for the most part locally.

G. The unquantified effect on the labor force if under 12 years olds were not allowed to work thus possibly removing a parent as well.

In view of the above, we strongly urge consideration and enactment of Senator Hathaway's amendment allowing the Secretary of Labor to exempt under 12 year old resident children from the requirements of the Act during off school time when such employment is deemed non-hazardous, not detrimental to the child's health and not depressing to adult wages or employment.

We would request the Sub-committee's permission to enlarge and extend these remarks if deemed necessary. We would be happy to respond to questions. Thank you, Senator Hathaway and Sub-committee members and staff.

SUMMARY OF STUDENT PARTICIPATION IN THE 1974 AROOSTOOK COUNTY POTATO HARVEST

Aroostook County, Maine is a specialized potato producing area. It includes about 1200 growers with about 142,000 acres of potatoes. This is a rural area isolated from large urban centers. Its settlers were English, French, and Swedish mainly from Southern Maine and Canada. Starting as small farm lumber settlements in the mid 1800's its farmers started shifting to commercial potato production in the early 1900's and from that time to the present have had labor shortages especially at spring planting and harvest times. Historically, maximum use has been made of local labor supplies including school youth.

In the earlier years, schools were small and widely scattered. There was no student transportation and school administration was simple and was handled by the individual communities. The school schedule consisted of a winter term (about Nov. 1 to Apr. 1) and a summer term (about June 15 to Sept. 1). Thus students were generally available for farm work both in spring and fall. Likewise, for many years after schools adopted a one term schedule, the absentee policy was liberal during the peak farm labor periods. Later state regulations were adopted establishing the total number of days school must operate. Federal and state law also prohibited the employment of school youth when schools were open. To abide by these regulations and yet supply the harvest labor needed, Aroostook County schools generally adopted a schedule of starting about August 15-20. They then closed for about a three week period, September 20 to October 10. Under this procedure all students were legally available for harvest work.

In recent years some Aroostook towns have become more urban in nature, schools are larger, their administration more complex and harvest operations more mechanized. This has resulted in a questioning of the policy of school closings by many persons not directly involved with the harvest. A few schools have not closed school for the 5 or 6 lower grades. This study was undertaken to measure the extent to which this labor resource was actually being utilized.

To provide a base for appraising this data, one should realize that about 60 percent of the growers with perhaps 30 percent of the potato acreage, of this area are dependent at harvest time upon hand pickers. Also one should realize that the total number of workers involved in this harvest is estimated at about 22,000.

The bulk of the crop should, under normal conditions, be harvested in the period September 15 to October 15. However, some harvesting may start as early as September 1 and under serious weather conditions may extend to October 31. Frost loss is likely after October 10.

Our present potato varieties require 110 to 120 days growing period. Aroostook's growing season normally includes 115 frost free days. Thus growers operate in a very restricted growing and harvest season. The seriousness of this is often evidenced by heavy frost losses on produce harvested late and by acreage not harvested (in 1972—7000 acres and 1974—3000 acres).

The material for this study was collected by the Aroostook County Superintendents Association and involved the entire student body of Aroostook County up to and including high school youths. This data was tabulated ~~for~~ each school district by the superintendent of that area. These summaries were forwarded to the Maine Potato Council where the following analysis was prepared by Smith C. McIntire, Agent, Aroostook County Farm Bureau and Manager, Aroostook Farm Labor Association.

A total of fifteen superintendent areas were involved. Some of the data was available on an individual school basis, but no attempt was made to summarize that of separate schools.

NUMBER OF STUDENTS

A total of 20,653 students were involved in the survey. A breakdown of this group by classes was as follows:

Grade:	*Number of students*
SP-3	4,486
4-6	4,240
7-9	5,928
10-12	5,999
Total	20,653

Of the 20,653 students covered by the study, 16,920 or 81.9 percent supplied the information required.

NUMBER OF STUDENTS WORKING IN HARVEST

It should be recognized schools in at least three areas remained open during the harvest so some students were not available for work. However, a total of 13,656 reported having done harvest work. A breakdown of this group by grades shows the following:

Grade	Number working	Percent of students working
SP-3	1,505	11.0
4 to 6	2,774	20.3
7 to 9	5,066	37.1
10 to 12	4,308	31.6
Total	13,653	100.0

DAYS WORKED

The 13,653 students who participated in the harvest reported having worked a total of 212,570 days or an average of 15.7 days per student. A summary of average days worked by grades is as follows:

Grade:	*Average days worked*
SP-3	8.8
4-6	15.0
7-9	17.7
10-12	16.3

EARNINGS

A total of 13,653 students reported harvest labor earnings of $2,785,295.00. (Earnings were reported for 11,202 students. One area reported number of students working but did not report amount earned. To compute the total amount earned, the average earnings of the 11,202 were applied to the group for which no earnings were shown.) This represented an average earning per student of $14.16 per day and $248.00 for the harvest season. Following is a summary of earnings by grades:

Grade:	*Average amount earned*
SP-3	$43.26
4-6	122.68
7-9	196.57
10-12	328.46

PICKING

Of the 13,653 who reported having done harvest work, 8745 or 64.3 percent worked at picking potatoes. Following is a summary of this group by grades:

Grade	Number of students	Percent of total picking
SP-3	1,048	13.1
4 to 6	2,126	24.4
7 to 9	3,851	42.8
10 to 12	1,720	19.7
Total	8,745	100.0

DRIVING TRUCK

A total of 687 students reported that they worked at driving or working on trucks. This represented 5.0 percent of the 13,653 students working. A summary of this group by grades is as follows:

Grade:	*Number students*
SP-3	1
4-6	10
7-9	102
10-12	574

HARVESTER WORK

A total of 2022 students worked on harvesters which represented 15.0 percent of the students working. A division of this group by grades is as follows:

Grade:	*Number students*
SP-3	8
4-6	64
7-9	476
10-12	1474

POTATO HOUSE WORK

A total of 487 students worked in potato houses which represents 3.5 percent of the students working. A summary of this group by grades is as follows:

Grade:	Number students
SP-3	3
4-6	10
7-9	123
10-12	351

TYPES OF EMPLOYMENT

In an examination of the preceding data regarding types of work done by students, one must realize that many of these students were employed on the farms of their parents. This explains why some extremely young students reported having done non-picking work for which they would customarily not be employed.

For example a few young persons reporting harvester work may have been placing empty barrels for use by one row barrel type harvesters. In this case they would not actually be working on the machine. Likewise, young students reporting potato house work were probably doing some of the many lightwork jobs involved. An example of this might be the handling and counting of picker tickets as the potatoes were unloaded.

OTHER WORK

This employment may range from baby sitting to work in retail stores. Of the 13,653 youth working, 1071 or 8.0 percent had non-harvest employment.

PREPARED STATEMENT OF WILLIAM R. MALLOY, EMPLOYMENT SERVICE DIRECTOR, MAINE DEPARTMENT OF MANPOWER AFFAIRS

I am William R. Malloy, Employment Service Director for the Maine Department of Manpower Affairs, Augusta, Maine. Having been born and raised in Aroostook County, or "The County" and many years ago having worked in the Harvest myself, I have some insight on the situation that we are faced with today.

Years ago, a total family was dependent on Harvest earnings to clothe and in some cases, feed the family, throughout the winter months, or—a youngster may totally clothe himself for school. It is my conjecture that this is still the case in many situations today, especially in the second case.

I have at least eight (8) concerns in the use of youngsters during the Harvest: (1) *Safety*—Are there adequate safety precautions taken to insure the well being of workers? (2) *Education*—Are youngsters being kept out of school or used in areas where schools are in session? (3) *Displacement of primary wage earners*—Does the use of these young workers displace or prevent adult workers from getting jobs they might need? (4) *Exploitation of young workers*—Are these youthful workers paid less money or utilized in distasteful situations that an adult worker might not do or in doing, demand a greater wage rate? (5) *Depressing effect on wage rates*—Does the use of this many youthful workers actually tend to depress wages? (6) *Full use of migratory workers from other areas of the State.* (7) *Adequate housing conditions where needed*—Do they meet acceptable standards? and (8) *Job opportunities for youth.*

1. In the first case, I believe that safety precautions are taken by the growers to insure an individual's safety and make this statement on the basis of reportable accidents over the years by growers covered by Title 20, Part 602, of the Code of Federal Regulations.

2. In the second case, with the schools closed in most areas and the child labor laws that relate to under-age children working in areas where schools are open strictly enforced, my concern in this area becomes minimal.

3. In the third situation, it is estimated that total Harvest employment reaches a peak at 23,100 with approximately 59 percent falling into the school-age category. We sill find a need to utilize alien labor, though this practice has decreased vastly in the last four (4) years.

4. In the fourth instance, field surveys conducted by our Department during the Harvest indicates that there is no evidence of exploitation by way of working conditions or wages.

5. The fifth situation, like the fourth, does not bear out that the use of younger workers depresses in any way, or tends to keep wages at a minimum. I would be more concerned that the use of foreign labor would have such an effect.

6. In the sixth situation, every effort is used to employ migratory workers from other areas of the State through advertising, though there is no organized recruitment program.

7. In the seventh situation, adequate housing in my opinion, is a problem, though our Department is only concerned with that housing that comes under the provisions of Title 20 where foreign labor is used. It would have little effect on the younger workers who for the vast majority, are commuters and/or living with their family group who may be occupying individual dwellings furnished by the growers.

8. There are limited job opportunities for youthful workers not only in this area but throughout the State of Maine.

Comparing wage information on other crops in Aroostook County is somewhat difficult because of site and the relatively small number of workers used to harvest.

There are approximately 5900 acres of peas that produce 26 to 2800 pounds per acre and are harvested predominately by machine. This crop employs approximately 200 people with the average pay for cutters and combine workers being $2.95 per hour.

There is approximately 1,500,000 pounds of squash harvested in the County, with the average hourly rate being approximately $2.00 per hour.

There was an estimated 3,700,000 pounds of carrots harvested with a piece rate of $.35 per bushel. This compares with an average rate of $.40 per barrel for potatoes.

One question that might be asked, and certainly a probable concern, would be why is unemployment so high in this area during the harvest season when a labor shortage is evident? Briefly, I would cite two (2) major reasons: (1) There are approximately 2500 workers from potato processing plants who are on temporary lay-off status during the months of August and early September. Over fifty percent (50%) of these workers are women, many being 40 years or older, and (2) data from the regular Unemployment Insurance Program shows that over thirty-five percent (35%) of all claimants during the August through October period were women 40 years old and over, many of whom would not be able to cope with the physical demands of the job.

Total unemployment estimates are composed of three (3) major components, covered employment, non-covered employment, and new and re-entrants unemployed. To best determine the characteristics of the unemployed in Aroostook County during the months of August, September, and October, an evaluation of each component is necessary.

Covered employment:

Month:	*Number of insured unemployed*
August	1,307
September	771
October	612

From a 20 percent sample of the insured unemployed, for September, the following characteristics were depicted:

PERCENT DISTRIBUTION BY SEX AND AGE

Claimants	Total	Under 22	22–24	45 and ove
Total	100.0	7.6	51.0	41.4
Male	31.2	0	18.5	12.7
Female	68.8	7.6	32.5	28.7

Another segment of the covered unemployed are the unemployed exhaustees. These are the individuals who have exhausted their regular UI benefits and remain unemployed. One indication of the composition of the unemployed exhaustees is to examine the number of checks paid in the Extended Benefits Program by sex.

NUMBER AND PERCENT DISTRIBUTION BY MONTH AND SEX

Month	Total	Male	Percent	Female	Percent
Total	2,216	571	25.6	1,645	74.2
August	965	285	29.5	680	70.5
September	682	168	24.6	514	75.4
October	569	118	20.7	451	79.3

Although we have no data on the ages of the recipients of Extended Benefits, a review of the regular insured unemployed would indicate that at least one-third of these individuals are women 40 years old and over.

NON-COVERED EMPLOYMENT

Non-covered employed includes those persons unemployed from railroad, state and local government, small firms, non-profit institutions, domestics, self-employed and unpaid family and agriculture who are not covered under current UI laws. Although we have no solid data other than aggregate numbers for each of these groups, we do know that Aroostook County follows the National pattern in the composition of the unemployed from agriculture. The majority of these people are youth and women who comprise the bulk of turnover in the agricultural labor force.

NEW AND RE-ENTRANTS UNEMPLOYED

Again we have no hard statistical data on this sector other than total numbers. We do know that again youth and women comprise the majority of this sector of the unemployed. These individuals include youth and women either entering the labor force for the first time or re-entering the labor force after various periods of exclusion from the labor force.

As the data from the characteristics of the insured unemployed and the unemployed exhaustees indicate, approximately one-third of the unemployment of Aroostook County in the covered sector stems from women 40 years old and over. Although we have no specific data on the age and sex of the non-covered and new and re-entrants sectors, it would be safe to assume that women 40 and over account for at least 25 percent (25%) of these totals.

Attached to this statement are tables covering the Department's summary of the types of youth used during the harvest, the characteristics of the insured unemployed for the past three (3) years, comparative wage data for Aroostook County and the State, civilian labor force estimates for Aroostook County, and wage survey information for the past three (3) years.

The potato harvest is Maine's largest user of seasonal agricultural labor, especially of school youth. This demand is concentrated in Aroostook County, where in 1974 about ninety percent (90%) of the State's 145,000 acres of potatoes were grown. The total harvest employment is estimated at 23,100.

To obtain a current appraisal of this work force, the Maine Potato Council sent questionnaires to 1,354 growers in December 1974, and received 507 replies, results of which are listed below.

Of the 507 growers replying, 348 used a total of 405 harvesters. These growers employed a total crew of 3,992, including 1,436 students employed by 287 of the growers reporting.

Of the 507 growers reporting, 160 depended on a hand-pick operation. This group used a total crew of 5,709 of which 5,529 were pickers. Included in this were 4,359 students, 1,771 of which were under twelve (12) years old.

Miscellaneous information obtained from survey

Average acres potatoes per grower	108
Average number workers (total crew per harvester)	8
Students as a percent of total crew on harvest farms (percent)	36
Average number of workers on hand-pick farms	36
Students as a percent of total crew on hand-pick farm (percent)	76

POTATO ACREAGE ON FARMS REPORTING

Year	Round Whites	Russets	Total	Percent change from previous year
1972	40, 431	13, 361	53, 792	0
1973	40, 745	13, 302	54, 047	+. 5
1974	44, 264	14, 658	58, 922	+9. 0

In 1974, the Russet acres amounted to 24.9 percent of the total acreage on these farms.

The farms reporting showed a loss of 1,405 acres due to freezing. This included 986 acres of Whites and 419 acres of Russets.

Another study was also conducted by the Maine Potato Council in conjunction with the Aroostook County Superintendents Association that involved the total school population broken out as follows:

Grade:	*Number of students*
SP–3	4, 486
4–6	4, 240
7–9	5, 928
10–12	5, 999
Total	[1] 20, 653

[1] Taken from Potato Council Survey.

Of the 20,653 students covered in the survey, the results compiled by Smith C. McIntire, Agent for Aroostook County Farm Bureau and also Manager of the Aroostook Farm Labor Association, cited a return of 16,920 or 81.9 percent of the total. Mr. McIntire's second table listed below, reflects the number of students working in the Harvest.

Grade	Number of working	Percent of students working
SP-3	1, 505	11. 0
4 to 6	2, 774	20. 3
7 to 9	5, 066	37. 1
10 to 12	4, 308	31. 6
Total	13, 653	100. 0

Using the total population and the table that reflected the number of students working in the Harvest as a base, we developed the following:

Number of Students

Of the fifteen (15) school districts within the jurisdiction of the Aroostook County Superintendents Association, five (5) school districts remain partially or completely open during the Harvest season. Approximately 5,700 students, or 27.6 percent of the total 20,653, would have been attending school and therefore, not available for harvest work. The following breakout cites the School Administrative Districts which remained open, the grades remaining in session, and the estimated number of students:

School district	Grade	Number of students
Limestone	SP-6	1, 300
Madawaska	SP-12	1, 800
SAD No. 1	SP-5	1, 700
SAD No. 10	SP-12	100
SAD No. 32	SP-12	800
Total		5, 700

Number of Students Working in Harvest

The reduction of these 5,700 students would mean that approximately 15,000 students would have been available for the potato harvest. Mr. McIntire's findings indicate that 1,071 or 7.8 percent of the students working during the Harvest season held jobs unrelated to the potato harvest. This figure of 1,071 subtracted from 15,000 results in a total of 13,929 students available to work in the Harvest. Mr. McIntyre's survey cites a total of 12,582 students actually working in the potato harvest. Subtracting the figure of 12,582 from the total of 13,929 results in 1,347 students remaining that are available for harvest work. Applying Mr. McIntire's finding of the number of students working in the Harvest who responded to the survey (12,582÷16,920=.743) it can be estimated that approximately 1,000 of the 1,347 students worked in the potato harvest. These additional 1,000 students would result in a total of 13,582 students directly working in the Harvest, or 90.5 percent of all available students. It can be estimated that a total of *14,653, or 97.7 percent* of those available, were employed in some capacity during the Harvest season.

Total students SP–6 equals 8,726.[1]

SCHOOLS REMAINING OPEN DURING HARVEST (SP-6)

School	Grade	Number of students
Limestone	SP-6	1,300
Madawaska	SP-6	900
SAD No. 1	SP-5	1,700
SAD No. 10	SP-6	30
SAD No. 32	SP-6	440
Total		4,370

Students not available for Harvest SP–6 equals 4,370.
Students reported working during Harvest SP–6 equals 4,279.[1]

Total students SP–6	8,726
Students not available SP–6	—4,370
Total students available for harvest SP–6	4,356
Students reporting working SP–6	4,279
Estimated students working in nonharvest jobs SP–6	—100
Total students working in the harvest SP–6	4,179

4,179 divided by 4,356 equals .959 percent of all students SP–6 working in the harvest.

4,279 divided by 4,356 equals .982 percent of all students SP–6 working in some capacity.

Total students—7–12 equals 11,927.[1]

SCHOOLS REMAINING OPEN DURING HARVEST (7-12)

School	Grade	Number of students
Madawaska	7-12	900
SAD No. 10	7-12	70
SAD No. 32	7-12	360
Total		1,330

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[1] Taken from Potato Council Survey.

Students not available for harvest 7-12 equals 1,330.
Students reported working during harvest 7-12 equals 9,374.[1]

Total students 7-12	11,927
Students not available for harvest 7-12	−1,330
Total students available for harvest 7-12	10,597
Students reported working 7-12	9,347
Estimated students working in nonharvest jobs 7-12	−971
Total students working in harvest 7-12	8,403
Estimated additional students 7-12 working in the harvest	+1,000
Total number of students 7-12 working in harvest	9,403

9,403 divided by 10,597 equals .887 percent of all students 7-12 working in the harvest.

10,374 divided by 10,597 equals .978 percent of all students 7-12 working in some capacity.

Students SP-6	4,179
Students 7-12	9,403
Total students working in the harvest	13,582

Earnings

Applying Mr. McIntire's average earnings per student for harvest labor of $248 per student to the total of 13,582 would result in total harvest labor earnings of $3,368,336.

Conclusions

I would conclude that the use of young workers in this harvest:

1. does not displace adult workers,
2. does not depress wages,
3. has little effect on total unemployment during the harvest,
4. presents no evidence of exploitation,
5. presents an opportunity for work that would not otherwise be available,
6. that until mechanization, i.e. the use of mechanical harvesters is substantially increased, that there is a need for these workers.
7. that prohibiting the use of approximately 4,200 or thirty-one percent (31%) of the work force, would have a crippling effect. Young mothers who now work in the harvest, or some family groups, would automatically drop out, not wanting to pay extra money for babysitters, and
8. the prohibited use will also have an unmeasurable economic effect on most of the County.

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[1] Taken from Potato Council Survey.

CHARACTERISTICS OF THE INSURED UNEMPLOYED FROM A 20 PERCENT SAMPLE OF SEPTEMBER 1974, 1973, AND 1972

	1974			1973			1972		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
Percent distribution by sex and age:									
Total	100.0	31.2	68.8	100.0	30.4	69.6	100.0	29.8	70.2
Total under 40	47.8	14.0	33.8	42.4	14.6	27.8	43.4	13.1	30.3
Under 22	7.6	0.0	7.6	8.9	3.2	5.7	11.6	3.6	8.0
22 to 24	7.0	1.3	5.7	8.9	1.9	7.0	8.7	1.6	7.1
25 to 34	19.8	8.3	11.5	18.9	8.2	10.7	15.1	5.9	9.2
35 to 39	13.4	4.4	8.9	5.7	1.3	4.4	8.0	4.4	3.6
Total 40 and over	52.2	17.2	35.0	57.6	15.8	41.8	56.6	16.7	39.9
40 to 44	10.8	4.4	6.4	12.0	3.2	8.8	7.6	.8	6.8
45 to 54	20.4	6.4	14.0	23.4	3.8	19.6	22.7	5.9	16.8
55 to 64	17.2	4.5	12.7	15.9	5.7	10.2	18.3	5.6	12.7
65 and over	3.8	1.9	1.9	6.3	3.1	3.2	8.0	4.4	3.6
Percent distribution by industry and sex:									
Total	100.0	31.2	68.8	100.0	30.4	69.6	100.0	29.8	70.2
Manufacturing	49.7	10.2	39.5	59.5	11.4	48.1	69.3	17.1	52.2
Food and kindred products	33.7	5.1	28.6	46.2	8.2	38.0	58.9	14.3	44.6
Wholesale and retail trade	16.6	3.3	13.4	17.1	4.4	12.7	8.7	2.8	5.9
Services	8.9	1.9	7.0	3.8	.6	3.2	2.4	.4	2.0
All other	24.8	15.9	8.9	19.6	14.0	5.6	19.6	9.5	10.1
Percent distribution by occupation (occupation classification):									
Total		100.0			100.0			100.0	
Professional, technical, and managerial		9.6			3.8			28.3	
Clerical and sales		15.3			13.9			10.7	
Services		12.1			9.5			4.8	
Processing		26.2			35.4			32.7	
Machine trade		10.8			9.5			4.4	
Bench work		2.5			1.3			1.2	
Structural work		8.9			7.6			5.2	
Miscellaneous		14.6			19.0			12.7	

COMPARATIVE WAGE DATA AROOSTOOK COUNTY AND MAINE—AVERAGE WEEKLY WAGES PAID IN COVERED EMPLOYMENT BY INDUSTRY DIVISION FOR 1972 AND 1973

	Average weekly wages			
	Aroostook County		Maine	
Industry division	1973	1972	1973	1972
Total	$122.95	$117.08	$131.32	$124.96
Agriculture, forestry, and fisheries	96.19	77.33	123.78	110.29
Contract construction	140.69	134.54	155.09	156.00
Manufacturing	139.48	135.13	142.99	135.19
Transportation, communication, electric, gas, and sanitary services	171.24	158.34	181.07	170.02
Wholesale and retail trade	100.66	95.94	111.72	106.08
Finance, insurance and real estate	133.29	125.08	144.28	137.75
Services	90.96	82.34	104.10	96.75
State government	169.89	178.57	156.23	156.05

AVERAGE ANNUAL GROSS WAGES BY INDUSTRY FROM THE 1973 CENSUS OF MAINE MANUFACTURES

Industry	Average gross wages			
	Aroostook County		Maine	
	1973	1972	1973	1972
Total, all manufacturing	$6,893	$6,618	$7,050	$6,706
Food	5,075	5,647	5,856	5,631
Lumber and wood	7,997	7,063	6,631	5,945
Paper and allied products	9,929	9,207	9,519	9,057
Printing	4,776	4,607	7,107	6,559
Chemicals	6,917	6,280	7,212	6,778
Stone, clay, and glass	5,733	5,863	8,335	7,797
Machinery and ordnance	6,262	5,718	7,798	7,150

CIVILIAN LABOR FORCE ESTIMATES FOR AROOSTOOK COUNTY

Item	1974	1973	1972
AUGUST			
Civilian labor force	38,780	37,400	37,020
Unemployment	3,750	3,800	4,650
Percent of civilian labor force	(9.7)	(10.2)	(12.6)
Employment	35,030	33,600	32,370
SEPTEMBER			
Civilian labor force	49,470	50,470	48,600
Unemployment	3,060	3,100	3,610
Percent of civilian labor force	(6.2)	(6.1)	(7.4)
Employment	46,410	47,370	44,990
OCTOBER			
Civilian labor force	41,110	35,490	35,560
Unemployment	2,510	2,260	2,460
Percent of civilian labor force	(6.1)	(6.4)	(6.9)
Employment	38,600	33,230	33,100
NOVEMBER			
Civilian labor force	35,490	35,010	34,890
Unemployment	2,800	2,260	2,420
Percent of civilian labor force	(7.9)	(6.5)	(6.9)
Employment	32,690	32,750	32,470

DOMESTIC AGRICULTURAL IN-SEASON WAGE REPORT [1]

AROOSTOOK COUNTY, MAINE—POTATO HARVEST

[Prevailing wage rate findings (all workers): $3 per hour; employers contacted: 87; survey period: Oct. 1–4, 1974; date of finding: Oct. 18, 1974]

Job activity, rate (amount per unit)	Number of workers	
	Total	In State
(I)	(II)	(III)
Barrel handlers (total)	311	311
Rate—per hour:		
$4.50	27	27
$4.00	9	9
$3.89	19	19
$3.75	1	1
$3.50	26	26
$3.33	34	34
$3.18	13	13
$3.13	8	8
$3.00	[2] 38	[2] 38
$2.80	2	2
$2.78	8	8
$2.75	4	4
$2.73	18	18
$2.50	82	82
$2.27	3	3
$2.25	8	8
$2.22	1	1
$2.00	10	10

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[1] From ES–232 Report.

[2] Prevailing wage rate as per the 51-percent rule.

[Prevailing wage rate findings (all workers): $0.40 per barrel; employers contacted: 85; survey period: Oct. 1-4] 1974; date of finding: Oct. 18, 1974]

Job activity, rate (amount per unit) (I)			Number of workers	
			Total (II)	In-state (III)
Potato pickers (total)			2,404	2,404
Piece rate—per barrel:				
Base rate:	Bonus	Gross rate		
$0.50		$0.50	143	143
$0.45		.45	32	32
$0.40	$0.05	.45	62	62
$0.36	.10	.45	70	70
$0.42		.42	17	17
$0.40	.02	.42	30	30
$0.40		.40	[1] 964	[1] 964
$0.38	.02	.40	22	22
$0.35	.05	.40	231	231
$0.39		.39	25	25
$0.38		.38	322	322
$0.37		.37	4	4
$0.35		.35	407	407
$0.32		.32	55	55
$0.30		.30	20	20

[1] Prevailing wage rate as per the 40-percent rule.

[Prevailing wage rate findings (all workers): $2; employers contacted: 170; survey period: Sept. 28–Oct. 13, 1973; date of finding: Oct. 19, 1973]

Job activity, rate (amount per unit) (I)	Number of workers	
	Total (II)	In State (III)
Harvest machine workers (total)	1,282	1,282
Rate—per hour:		
$2.50	12	12
$2.45	8	8
$2.25	104	104
$2.22	4	4
$2.20	4	4
$2.15	24	24
$2.10	109	109
$2.00	[1] 541	[1] 541
$1.96	8	8
$1.95	9	9
$1.90	216	216
$1.85	11	11
$1.80	200	200
$1.75	5	5
$1.65	3	3
$1.60	24	24

[1] Prevailing wage rate as per the 40-percent rule.

[Prevailing wage rate findings (all workers): $2.25; employers contacted: 211; survey period: Sept. 28–Oct. 13, 1973; date of finding: Oct. 19, 1973]

Job activity, rate (amount per unit) (I)	Number of workers Total (II)	 In State (III)
Potato house worker (total)	392	392
Rate—per hour:		
$3.18	10	10
$3.00	20	20
$2.92	3	3
$2.91	1	1
$2.80	1	1
$2.78	6	6
$2.73	9	9
$2.60	1	1
$2.55	4	4
$2.50	80	80
$2.35	2	2
$2.33	1	1
$2.27	1	1
$2.25	[1] 89	[1] 89
$2.22	4	4
$2.20	13	13
$2.15	1	1
$2.10	3	3
$2.08	4	4
$2.00	112	112
$1.80	25	25
$1.79	2	2

[1] Prevailing wage rate as per the 51-percent rule.

[Prevailing wage rate findings (all workers): $2.50 per hour; employers contacted: 128; survey period: Sept. 28–Oct. 13 1973; date of finding: Oct. 19, 1973]

Job activity, rate (amount per unit) (I)	Number of workers Total (II)	 In State, (III)
Barrel handlers (total)	289	289
Rate—per hour:		
$3.33	2	2
$3.18	5	5
$3.00	36	36
$2.92	3	3
$2.91	2	2
$2.80	4	4
$2.78	8	8
$2.73	11	11
$2.55	3	3
$2.50	[1] 83	[1] 83
$2.33	4	4
$2.30	2	2
$2.27	4	4
$2.25	57	57
$2.22	10	10
$2.20	10	10
$2.08	3	3
$2.00	32	32
$1.92	2	2
$1.80	4	4
$1.79	2	2
$1.78	2	2

[1] Prevailing wage rate as per the 51-percent rule.

[Prevailing wage rate findings (all workers): $0.30 per barrel; employers contacted: 142; survey period: Sept. 28–Oct. 13, 1973; Date of finding: Oct. 19, 1973]

Job activity, rate (amount per unit) (I)			Number of workers	
			Total (II)	Instate (III)
Potato pickers (total)			4,212	4,212
Piece rate—per barrel:				
Base rate:	Bonus	Gross rate		
$0.40		$0.40	103	103
$0.35	$0.03	.38	17	17
$0.37		.37	6	6
$0.35		.35	1,443	1,443
$0.32	.03	.35	70	70
$0.30	.05	.35	106	106
$0.30	.03	.33	30	30
$0.32		.32	135	135
$0.30	.02	.32	196	196
$0.30	.01	.31	45	45
$0.30		.30	[1] 1,930	[1] 1,930
$0.28	.02	.30	32	32
$0.25	.05	.30	26	26
$0.29		.29	18	18
$0.27		.27	55	55

[1] Prevailing wage rate as per the 40-percent rule.

[Prevailing wage rate findings (all workers): $0.30 per barrel; employers contacted: 127; survey period: Oct. 2–6, 1972; date of finding: Oct. 20, 1972]

Job activity, rate (amount per unit) (I)			Number of workers	
			Total (II)	In State (III)
Potato pickers (total)			4,198	4,198
Piece rate—per barrel:				
Base rate:	Bonus	Gross rate		
$0.35		$0.35	12	12
$0.32		.32	10	10
$0.30	$0.02	.32	85	85
$0.30		.30	[1] 3,748	[1] 3,748
$0.25	.05	.30	160	160
$0.28		.28	33	33
$0.27		.27	140	140
$0.25	.02	.27	10	10

[1] Prevailing wage rate as per the 40-percent rule.

[Prevailing wage rate findings (all workers): $2 per hour; employers contacted: 132; survey period: Oct. 2–6, 1972; date of finding: Oct. 20, 1972]

Job activity, rate (amount per unit) (I)	Number of workers	
	Total (II)	In-State (III)
Barrel handlers (total)	365	365
Rate—per hour:		
$3.00	7	7
$2.78 ($1 a day bonus)	8	8
$2.78	7	7
$2.73	13	13
$2.70	3	3
$2.50	66	66
$2.38	2	2
$2.32	2	2
$2.30	4	4
$2.27	10	10
$2.25	22	22
$2.22	31	31
$2.20	10	10
$2.16	2	2
$2.00	[1] 155	[1] 155
$1.90	2	2
$1.85	5	5
$1.80	10	10
$1.60	2	2
$1.50	4	4

[1] Prevailing wage rate as per the 40-percent rule.

[Prevailing wage rate findings (all workers): $2 per hour; employers contacted: 221; survey period: Oct. 2-6, 1972; date of finding: Oct, 20, 1972]

Job activity, rate (amount per unit) (I)	Number of workers Total (II)	 In State (III)
Potato House workers (total)	469	468
Rate—per hour:		
$3.00	4	4
$2.78 ($1 a day bonus)	12	12
$2.73	11	11
$2.63	1	1
$2.50	42	42
$2.40	3	3
$2.38	3	3
$2.36	4	4
$2.30	4	4
$2.27	9	9
$2.25	25	25
$2.22	9	9
$2.20	6	6
$2.10	1	1
$2.08	8	8
$2.00	[1] 280	[1] 280
$1.90	3	3
$1.85	2	2
$1.80	27	27
$1.75	3	3
$1.70	5	5
$1.67	1	1
$1.60	3	3
$1.50	3	

[1] Prevailing wage rate as per the 40-percent rule.

[Prevailing wage rate findings (all workers): $2 per hour; employers contacted: 316; survey period: Oct. 2-6, 1972; date of finding: Oct. 20, 1972]

Job activity, rate (amount per unit) (I)	Number of workers Total (II)	 In State (III)
Truck drivers (total)	795	795
Rate—per hour:		
$3.00	13	13
$2.78 ($1 per day bonus)	8	8
$2.78	2	2
$2.73	12	12
$2.70	3	3
$2.50	107	107
$2.40	5	5
$2.38	2	2
$2.36	8	8
$2.30	4	4
$2.27	7	7
$2.25	72	72
$2.22	26	26
$2.20	14	14
$2.10	19	19
$2.08	22	22
$2.00	[1] 424	[1] 424
$1.90	4	4
$1.85	8	8
$1.80	28	28
$1.75	3	3
$1.60	3	3
$1.25	1	1

[1] Prevailing wage rate as per the 40-percent rule.

[Prevailing wage rate findings (all workers): $1.85 per hour; employers contacted: 205; survey period: Oct. 2-6, 1972; date of finding: Oct. 20, 1972]

Job activity, rate (amount per unit) (I)	Number of workers: Total (II)	Number of workers: In State (III)
Harvest machine workers (total)	1,210	1,210
Rate—per hour:		
$2.50	4	4
$2.25	12	12
$2.22	5	5
$2.00	420	420
$1.90	116	116
$1.85	[1] 101	[1] 101
$1.80	314	314
$1.75	125	125
$1.70	29	29
$1.60	80	80
$1.50	4	4

[1] Prevailing wage rate as per the 51-percent rule.

[Prevailing wage rate findings (all workers): $2 per hour; employers contacted: 316; survey period: Oct. 2-6, 1972; date of finding: Oct. 20, 1972]

Job activity, rate (amount per unit) (I)	Number of workers: Total (II)	Number of workers: In State (III)
Tractor and equipment operators (total)	390	390
Rate—per hour:		
$3.18	1	1
$3.00	14	14
$2.78 ($1 per day bonus)	4	4
$2.78	3	3
$2.75	1	1
$2.73	7	7
$2.70	6	6
$2.50	72	72
$2.40	3	3
$2.38	3	3
$2.27	14	14
$2.25	55	55
$2.22	3	3
$2.20	5	5
$2.10	5	5
$2.08	10	10
$2.00	[1] 164	[1] 164
$1.85	1	1
$1.82	1	1
$1.80	17	17
$1.50	1	1

[1] Prevailing wage rate as per the 40-percent rule.

Mr. COHEN. It contains a number of statistics that would relate to the problem we are dealing with.

Briefly, if I could summarize, I support Mr. Meeds' H.R. 5329, with only one reservation, generally about the date. This would not be particularly helpful to the State of Maine. We have a season in which potatoes must be picked in a relatively short period of time—roughly 3 to 5 weeks. That comes about during the months of September and October.

Maine has a situation in which we have approximately 115 frost-free days in which to plant the potatoes and have them grow and be picked. And what has happened with this particular bill, well intended as it is to cure and correct a difficult problem, it has some unintended and unforeseen consequences to people such as I represent—potato growers.

Aroostook County, in particular, I would like to address myself to. That is the biggest potato-producing county in the State, and it is a tradition in the State of Maine, especially in Aroostook County, that they declare a 3-week recess in most of the schools in that entire county to allow the students to go out and help pick these potatoes—roughly, almost 14,000 students participate every year.

Also, 70 percent of the acreage that is done is picked mechanically. Students under the age of 16 are not permitted to operate or work on any of the mechanical harvesters. That is by State law. And the majority of the students are actually under the age of 16. It is a custom, a tradition, and a heritage—a way of life in this particular county where families go out—fathers, wives, and their children—and engage in picking.

It is not at all related to the situation which we hear so much about which is the most serious problem—migrant workers being exploited and treated in a cruel and inhumane fashion—but really, it is quite a wholesome endeavor on the part of Maine families. It is an opportunity for the students to earn a little extra money to buy clothes and to have some spending money, and I have personally been out in the fields.

In fact, I went out and picked a little this year, myself.

Mr. Quie. As a part of the campaign?

Mr. Cohen. Yes. As a matter of fact, Mr. Quie, I should point out that I didn't last much longer than the photographers who were there. My back gave out. I spent time going around visiting but not actually picking as a result of a low back condition.

We have a situation, it is not migrant labor. It is for the most part people who live right in the general area. As I recall the statistical information, only 250 bonded Canadians are actually employed, and another 200, I believe, are on a temporary basis. But almost all of the labor comes directly out of Aroostook County, with 14,000 students involved.

Really, the hearings that were held in Presque Isle by Senator Hathaway, taking into account the safety factors—demonstrated no reported abuses, no reported injuries as such, and certainly no inhumane and cruel treatment. But it is a very strong way of life. It has been going on for decades in this area.

The point where schools declare their recess—they go in a month early, in August, and then declare a 3-week recess when the student goes out and helps with their families.

This bill, your amendment, is appropriate if the period of time could be changed. I would prefer to see October 15, or possibly November 1. But it is a 6-week period that would be affected in my State and have serious ramifications if it is not included, and I would rather stop here and just submit my written statement in terms of what was discussed at the meeting.

Mr. Ford. Thank you very much. We will hold the record open to receive that.

I want to compliment you for responding so quickly and effectively and on such extremely short notice. We should have anticipated your interest in this matter and advised you. I assure you that the staff will advise you of future actions.

This morning we checked on the State of Maine and found that, out of some 1,200 potato farms up there, only 45 are covered by the law without this exemption, so that we asked the question, How many violations have they had? And they said, none, and also indicated no complaints. We intend to pursue that a little further.

But, there is one other thing I might mention to you: In our hearings recently on offshore labor, we discovered that last year the Labor Department certified for temporary visas some 20,600 foreigners to come in and do agricultural labor. The conditions of that certification are that they first seek out local labor and American labor and having failed to fulfill their needs, they can submit an order through the county agent to the Labor Department. The Labor Department then certifies these nationals from other countries to come in for that purpose.

My recollection is that Maine had certified last year some 2,000 foreign workers who were permitted in for that purpose. You indicated that, in potato farming, there were only 250. Presumably most of yours are Canadians.

Mr. COHEN. If I could respond to that, Mr. Ford?

Mr. FORD. What do they do in agriculture other than potatoes?

Mr. COHEN. Blueberry picking in Washington County would probably employ a great many of the Canadians that you refer to. Also, there is a perennial problem—I am glad you raised this issue because it also has a severe impact upon the economy of Maine in terms of what happens with the Labor Department certification program. We have a great deal of applegrowing as well, and each year the applegrowers find themselves in the situation where they really can't get local help and have to turn to Canadians to come in. The difficulty is that the Labor Department will not certify Canadians to come down until way into the season. They lost substantial amounts of apples this year because an early frost killed a good many of them, and what happens is that you have an area in the western part of the State, for example, where most of the applegrowing takes place, and they have a high unemployment rate—we have a textile area which is in very difficult shape now with high unemployment. And, yet the people that work in the shoe factories, for example, are not really physically fit to go out and engage in applepicking. They may go out for 1 or 2 days and then they quit because it is physically demanding to get up on a ladder with this sling around their neck, and so forth. So, they really don't last very long.

Even though you have a high unemployment rate and theoretically an available work force, they really don't apply and won't work in the applepicking. So, I would say that the bulk of the 2,000 that you mentioned deal with blueberry picking in the eastern part of the State of Maine, and possibly applepicking in the western part.

As far as potatoes are concerned, those are the statistics that I have. Out of a total of 22,000 laborers who participated in the potato harvest last year, 13,656 were students and there were approximately 250 bonded Canadians and approximately 250 Canadian Indians who participated in the 1974 harvest.

So, it is a very small number as far as potatoes are concerned. It is almost all done by families.

Mr. Ford. Thank you, very much. Mr. Quie?

Mr. Quie. In the potato picking that you are talking about, is this without machines?

Mr. Cohen. No. There would be machines in the area. They would have potato harvesters. What usually happens, the potato harvester will be working and they are two or three rows away from where the handpickers are. They are not in the same areas that the mechanical equipment is.

Usually they are with their mothers or fathers. It is always a family operation. They go out to the fields together and today, this is the reason the hearings were held in Presque Isle to get verification of this statistic. We had very little in the way of reported injuries in Maine.

As I say, the State law prohibits anyone under the age of 16 to work on or around the harvesters themselves. They have had really very little in the way of reported incidents of injury; excepting a broad law that applies to them now, it was not enforced last year against people in Maine, and that was just done by information agreement—or not—I don't know, but they were out picking last year.

The other question I would have about the tests employed, I think it is substantial economic dislocation or severe—and I am not sure whether or not—once the regulations are written as to how one would qualify for that exemption.

In Maine, as I pointed out, 70 percent is done mechanically. Now, the other 30 percent cannot be done by mechanical harvester due to the slopes of the land and so you do need a substantial hand force to help pick that.

What it does essentially is disrupt a very engrained and longstanding tradition in terms of families going out and working in the fields, coming home that night. They are all within driving distance of the farms nearby—for earning some extra money. The statistics and the study will tell you how it breaks down and what the average payment is to students—what their age is, how many barrels they pick. Many times the smaller children that go out with their mothers are simply there because their mothers are out picking, helping out and supplementing the income and they can't go if they can't bring their children. The children who are there will pick up a few potatoes, and maybe a couple of barrels during the course of the day, but it is really the kind of a function where they can keep an eye on their kids and still be able to pick and supplement their income.

It is mostly family.

Mr. Quie. 30 percent——

Mr. Cohen. 30 percent is done by hand, 70 percent by mechanical. But even where there is mechanical picking, there is hand harvesting.

Mr. Cohen. Not in the immediate location. Further down the fields.

Mr. Quie. Is that because part of the fields are too steep? Are they picking up what the machine misses, or what?

Mr. COHEN. The machine will go through and lift up the potatoes as they go along. So, you can pick them up.

Mr. QUIE. Don't they have some machines that do all the sorting and everything? Some that put the potatoes out in bags sometimes?

Mr. COHEN. Not in Maine.

According to the council's survey, 31 percent or roughly 41,000 acres were actually hand harvested and 69 percent was mechanical and for the reasons that they set forth—the slopes of the land—so that they don't really foresee a way of reducing it to make it all mechanically harvested. So, what that act does is, in essence, is to disrupt a substantial way of life which is important to people in Aroostook County.

Now, we have those who testified in opposition. They were from other regional offices and talked about the disruption of one's educational life, the impact upon the moral development of the child and the potential hazard to a child's physical development. And, what they were suggesting is that there is some long-term disadvantage to the anatomy for a 6-week period when children are out working with their parents and under their direct supervision. This came as rather a shock to the people in Aroostook County, to suggest that somehow they were either physically deformed or their educational process has been substantially retarded, because most of the people live a very hardy life in Aroostook County and they see this really as a law which was never intended to apply to a situation where you don't have migrant labor as such and you don't have the horrible conditions that the act was intended to remedy.

Mr. MEEDS. Thank you, Mr. Chairman. I just wanted to thank my colleague for his testimony.

Mr. COHEN. Thank you.

Mr. FORD. Jeffrey Newman, executive director of the National Child Labor Committee, accompanied by Mrs. Cassandra Stockburger, director of National Committee on the Education of Migrant Children.

Without objection, the prepared statement presented to the committee by Mr. Newman and Ms. Stockburger will be inserted in full at this point in the record.

You may proceed to summarize or comment as you please.

[The statement referred to follows:]

PREPARED STATEMENT OF JEFFREY NEWMAN, EXECUTIVE DIRECTOR, NATIONAL CHILD LABOR COMMITTEE

For over seventy years the National Child Labor Committee has been active on behalf of the nation's children, working to insure their general well-being, their rights and dignity. The struggle for the protection of children from work abuse has been a long one—over the years practically every argument from A to Z has been used. Disparate attempts to justify young child labor have ranged all the way from the "way of God" to "economic necessity." But we at the Committee have maintained in the past, and maintain today, that there simply is no justifying the unjustifiable. Young children are simply not needed in the fields—hundreds of agricultural communities, once insisting upon the necessity of child labor, now flourish without it.

There is no reason to believe that the communities seeking passage of H.R. 632 and H.R. 5329 would not do equally well, economically, without child labor; what's more, there is every reason to believe that the young children of these communities, as well as those in agricultural areas throughout the country, will be the better for not working in the fields.

After almost three quarters of a century as an advocate for the rights of children to grow up free of exploitation in the job market, it is with profound sadness that we, as representatives of the National Child Labor Committee, come to yet another hearing on a bill which would lessen rather than strengthen the existing protection of children under the Fair Labor Standards Act.

Four years ago, following the study of *Child Labor in Agriculture*, which we carried out jointly with the American Friends Service Committee, we testified in behalf of proposed amendments which would at long last bring work in agriculture, outside of school hours, under the coverage of the child labor provisions of the Fair Labor Standards Act. At that time we held that age 14 was the absolute minimum acceptable age for such work. Unfortunately three years later when such coverage was finally extended the minimum was set at age 12. We have accepted this as a step in the right direction toward adequate protection for all children—nothing more.

Now, even before the 1974 amendments, which at least extended protection from exploitative work in agriculture to the very young, have been enforced, we are called upon to defend this already inadequate legislation from further weakening. The Bill before us, H.R. 632, and the subsequent H.R. 5329, would seek a limited waiver for some children to work. Looking at the provisions of this Bill we find that it would permit work to a child under age 12 who lives near where he will be employed. It would permit children to work in the traditional hand harvested crops and at jobs paid the piece rate. Such work must not exceed any 13-week period between June 1 and September 15. The Secretary of Labor would be called upon to determine whether the work would have any harmful effects on either the child or the economy.

There are those, we are sure, who will say there seems to be nothing wrong with this, but let's take a closer look. A major objection to this Bill is the simple fact that it assumes that child labor for children under age 12 is acceptable under certain circumstances. We strongly disagree. We believe it is indefensible to advocate the employment of any child under the age of 12 on any job. It has long been accepted in this country that children even up to ages 14 and 16 do not work in factories, offices, stores, businesses or the street trades. The prohibition of such work is not dependent on safety or the ability of the child to perform the task. It is based solely on a soundly developed social policy that young children ought not to be employed. Thus today we prohibit by law the work of young children in the safest jobs—even the neighborhood candy store.

Agriculture has only belatedly begun to catch up with this policy. Certainly what we need is more protection not less. When the 1974 child labor amendments were finally passed it was a recognition that agricultural child labor is no more acceptable than was the labor in the mines and the sweatshops of a by-gone area. It was finally a recognition that child labor did indeed take jobs away from adults and that the availability of child laborers depressed wages for adults. It was a recognition that child labor was economically unnecessary and that young children had been used as unwitting tools for profit.

The 1974 amendments provide equal protection under the law for all children. Now H.R. 632 would exempt some children from this law. H.R. 632 seems to be saying there is nothing wrong with child labor if the worker is middle class, well-fed, well-educated and well-clothed and has a permanent residence nearby. This bill would give jobs to children to enable them to earn money to buy a bicycle, feed their pets or buy specially desired clothing, while unemployment lines are growing and heads of families search for any dignified way they can find to earn money to feed their families.

Further H.R. 632 asks for the labor of the youngest children in our land: not fourteen, fifteen or sixteen-year olds but mere infants. Are we, as a nation, so morally bankrupt that we will advertise to the world that we must have our nation's youngest children laboring in the fields—otherwise that luxury crop of all luxuries—strawberries—cannot be harvested. Must the NCLC and others, once again, as we did in the 20's and 30's, send photographers to the fields to show to the nation and the world the shame of 5, 6, 7, 8, 9, 10 and 11-year-old child laborers?

We find that much of the argument in support of an exemption to this bill does not consider children at all, but rather places the emphasis upon the economic hardship which may be encountered by farmers if they are denied the labor of children under 12. While we do not believe such hardship would be encountered if adequate working conditions and recruitment were carried out, the first consideration must always be for the child. No crop is worth harm to even one child.

Further, we are opposed to the granting of any waiver because we believe that the granting of one waiver opens up the possibility of endless waivers thus making the present law meaningless.

Also, it is important to note that, by the Labor Department's own reckoning, enforcement of child labor laws is extremely difficult. Further, waivers would dilute compliance efforts and make enforcement, nationwide, virtually impossible.

At the 1973 hearings of the California legislature on their own comprehensive law, the inability to properly enforce the law was cited as a major problem. There were gross violations; waivers, it was clear, would compound the difficulties ad infinitum and allow violations to go unchecked.

H.R. 632 also would limit the waiver to children who "commute daily from their permanent residence to the farm on which they are employed." This obviously means that no child of a migrant farm worker can be employed.

We believe that to prohibit employment on the basis of residence alone is a discriminatory application of the law. While we have fought for years to get protection for migrant children we are aware that such a proposed application of the law will unfairly affect the migrant family. Must the poverty-stricken migrant family stand by and watch the children of the affluent reap the financial benefits from the properly protective benefits of the amendments to the FLSA?

Additionally, it had been expected that with the passage of the 1974 amendments that the depressive effects of child labor on wages would be removed and the income af adult farm workers would be improved thus compensating for the loss of income from their children's work. But this will not be true so long as large numbers of resident children are permitted to be available for work.

Others have argued that middle-class children need the experience of working because it teaches them a sense of values and responsibility. This was an argument used for many years about the work in the mines and the mills. Yet we have no evidence that children deprived of such work over the past 35 years have failed to develop these values in these areas. On the other hand, our observation of those children who testified in a recent child labor hearing in Maine would indicate that these children who had gone to the field as early as age five or six have a warped sense of values. Their testimony attested to the extraordinary value they placed on the money earned. The one child who was askd if she preferred work to school, answered in the affirmative.

We believe that childen learn better in an environment planned to suit their ages and their needs. If this were not true then should we not consider requiring all children to work as a part of their education? As ventured by the *Pennsylvania Children* in 1932:

> If child labor affords better moral training than does study in school then to be consistent, we should have compulsory child labor for all instead of required school attendance.

SUMMARY

The Child Labor Committee opposed H.R. 632, and the subsequent H.R. 5329 because:

1. To grant any waiver for child labor is a weakening of the law. The granting of even one exemption opens up the possibility of countless others.
2. It advocates the employment of young children under the age of 12 when our nation has accepted a policy of no employment for children under 14 or 16.
3. To grant an exemption on the basis of residence is discriminatory and will unfairly affect migratory families.
4. To advocate the employment of pre-adolescent children at a time of high unemployment makes no sense at all.

To close I would like to quote from an agency publication dated 1932:

> Child labor, an evil which unfortunately prevails during periods of prosperity, becomes a more aggravated problem when unemployment prevails. Reprehensible as it always is, it becomes increasingly so when the heads of families with children dependent upon them are deprived of an opportunity to earn a decent living because these children victims of industry and agriculture are employed. . . .
>
> Owen D. Young, *Where Work Begins*, 1932.

For these reasons we urge that Sec. 25 of the Fair Labor Standards Act be kept strong and that no waiver be granted.

STATEMENT OF JEFFREY NEWMAN, EXECUTIVE DIRECTOR, NATIONAL CHILD LABOR COMMITTEE, ACCOMPANIED BY CASSANDRA STOCKBURGER, DIRECTOR OF MIGRANT EDUCATION, NATIONAL CHILD LABOR COMMITTEE, NEW YORK, N.Y.

Mr. **Newman.** Thank you, Mr. Chairman. If we could, I would like to read very briefly the opening statement that we have and let Ms. Stockburger cover the rest of our testimony.

For over 70 years, the National Child Labor Committee has been active on behalf of the Nation's children, working to insure their general well-being, their rights, and dignity. The struggle for the protection of children from work abuse has been a long one—over the years, practically every argument from A to Z has been used. Disparate attempts to justify young child labor have ranged all the way from the "way of God" to "economic necessity." But we at the committee have maintained in the past, and maintain today, that there simply is no justifying the unjustifiable. Young children are simply not needed in the fields—hundreds of agricultural communities, once insisting upon the necessity of child labor, now flourish without it.

There is no reason to believe that the communities seeking passage of H.R. 632 and H.R. 5329 would not do equally well, economically, without child labor; what's more, there is every reason to believe that the young children of these communities, as well as those in agricultural areas throughout the country, will be the better for not working in the fields.

Ms. **Stockburger.** Four years ago, following our study of "Child Labor in Agriculture," which we carried out jointly with the American Friends Service Committee, we testified in behalf of proposed amendments which would at long last bring work in agriculture, outside of school hours, under the coverage of the child labor provisions of the Fair Labor Standards Act. At that time we held that age 14 was the absolute minimum acceptable age for such work. Unfortunately, 3 years later when such coverage was finally extended, the minimum was set at age 12. We have accepted this as a step in the right direction toward adequate protection for all children—nothing more.

Now, even before the 1974 amendments, which at least extend protection from exploitative work in agriculture to the very young, have been enforced, we are called upon to defend this already inadequate legislation from further weakening. The bill before us, H.R. 632, and the subsequent H.R. 5329, would seek a limited waiver for some children to work. Looking at the provisions of this bill, we find that it would permit work to a child under age 12 who lives near where he will be employed. It would permit children to work in the traditional hand harvest crops and at jobs paid the piece rate. Such work must not exceed any 13-week period between June 1 and September 15. The Secretary of Labor would be called upon to determine whether the work would have any harmful effects on either the child or the economy.

There are those, we are sure, who will say there seems to be nothing wrong with this, but let's take a closer look. A major objection to this bill is the simple fact that it assumes that child labor for children under age 12 is acceptable under certain circumstances. We strongly disagree. We believe it is indefensible to advocate the employment of any child under the age of 12 on any job. It has long been accepted in this country that children even up to ages 14 and 16 do not work in factories, offices, stores, businesses, or the street trades. The prohibition of such work is not dependent on safety or the ability of the child to perform the task. It is based solely on the soundly developed social policy that young children ought not to be employed. Thus today, we prohibit by law the work of young children in the safest jobs—even the neighborhood candy store.

Agriculture has only belatedly begun to catch up with this policy. Certainly what we need is more protection, not less. When the 1974 child labor amendments were finally passed, it was a recognition that agricultural child labor is not more acceptable than was the labor in the mines and the sweatshops of a bygone era. It was finally a recognition that child labor did indeed take jobs away from adults and that the availability of child laborers depressed wages for adults. It was a recognition that child labor was economically unnecessary and that young children had been used as unwitting tools for profit.

The 1974 amendments provide equal protection under the law for all children. Now H.R. 632 would exempt some children from this law. H.R. 632 seems to be saying there is nothing wrong with child labor if the work is middle class, well fed, well educated, and well clothed, and has a permanent residence nearby. This bill would give jobs to children to enable them to earn money to buy a bicycle, feed their pets, or buy specially desired clothing, while unemployment lines are growing and heads of families search for any dignified way they can find to earn money to feed their families.

Further, H.R. 632 asks for the labor of the youngest children in our land: Not 14-, 15-, or 16-year-olds, but mere infants. Are we, as a nation, so morally bankrupt that we will advertise to the world that we must have our Nation's youngest children laboring in the fields—otherwise, that luxury crop of all luxuries—strawberries—cannot be harvested? Must the NCLC and others, once again, as we did in the 1920's and 1930's, send photographers to the fields to show to the Nation and the world the shame of 5-, 6-, 7-, 8-, 9-, 10-, and 11-year-old child laborers?

Also, I would like for the record to mention that 3 years ago, after trying to get the Labor Department to take action and bring the compliance effort in Louisiana, where 300 children were working during the strawberry harvest—where the schools that arranged for special school terms with Federal funds—we did get a compliance procedure. The school was open on a full-day basis.

All of the children were taken out of the fields and no crop was lost. In fact, local people were recruited and the wages were increased.

I checked with the Labor Department within the last year—that is, the local labor department—and found that the local labor supply is still adequate and that children are not working in the fields.

Further, we are opposed to the granting of any waiver because we believe that the granting of one waiver opens up the possibility of endless waivers, thus making the present law meaningless.

Also, it is important to note, that, by the Labor Department's own reckoning, enforcement of child labor laws is extremely difficult. Further, waivers would dilute compliance efforts, thus making enforcement, nationwide, virtually impossible.

At the 1973 hearings of the California Legislature on their own comprehensive law, the inability to properly enforce the law was cited as a major problem. There were gross violations; waivers, it was clear, would compound the difficulties ad infinitum and allow violations to go unchecked.

H.R. 632 would also limit the waiver to children who "commute daily from their permanent residence to the farm on which they are employed." This obviously means that no child of a migrant farmworker can be employed.

We believe that to prohibit employment on the basis of residence alone is a discriminatory application of the law. While we have fought for years to get protection for migrant children, we are aware that such a proposed application of the law will unfairly affect the migrant family. Must the poverty-stricken migrant family stand by and watch the children of the affluent reap the financial benefits from the properly protective benefits of the amendments to the FLSA?

Additionally, it has been expected that with the passage of the 1974 amendments that the depressive effects of child labor on wages would be removed and the income of adult farmworkers would be improved, thus compensating for the loss of income from their children's work. But this will not be true so long as large numbers of resident children are permitted to be available for work.

Others have argued that middle-class children need the experience of working, because it teaches them a sense of values and responsibilities. This was an argument used for many years about the work in the mines and the mills. Yet we have no evidence that children deprived of such work over the past 35 years have failed to develop these values. On the other hand, our observation of those children who testified in a recent child labor hearing in Maine would indicate that these children who had gone to the field as early as age 5 or 6 have a warped sense of values. Their testimony attested to the extraordinary value they placed on the money earned. The one child who was asked if she preferred work to school answered in the affirmative.

We believe that children learn better in an environment planned to suit their ages and their needs. If this were not true then should we not consider requiring all children to work as part of their education? As ventured by the "Pennsylvania's Children" in 1932:

> If child labor affords better moral training than does study in school then to be consistent, we should have compulsory child labor for all instead of required school attendance.

In summary, the Child Labor Committee opposes H.R. 632 and the subsequent H.R. 5329, because:

1. To grant any waiver for child labor is a weakening of the law. The granting of even one exemption opens up the possibility of countless others.
2. It advocates the employment of young children under the age of 12 when our Nation has accepted a policy of no employment for children under 14 or 16.
3. To grant an exemption on the basis of residence is discriminatory and will unfairly affect migratory families.
4. To advocate the employment of preadolescent children at a time of high unemployment makes no sense at all.

To close, I would like to quote from an agency publication dated 1932:

> Child labor, an evil which unfortunately prevails during periods of prosperity, becomes a more aggravated problem when unemployment prevails. Reprehensible as it is always is, it becomes increasingly so when the heads of families with children dependent upon them are deprived of an opportunity to earn a decent living because these children, victims of industry and agriculture are employed * * *.

For these reasons, we urge that section 25 of the Fair Labor Standards Act be kept strong and that no waiver be granted.

Mr. NEWMAN. I might just add, Mr. Chairman, that I think Congressman Cohen's appearance points out very clearly the dangers of any exemption, because while Congressman Meeds' bill would allow an exemption for one or two States, we already have one person coming in and asking for another exemption. I think this will go on until we find that somebody asks for an exemption for December, January, and February, and pretty soon you will have 50 States looking for exemptions.

Mr. FORD. Thank you very much. Has the National Child Labor Committee to any degree at all monitored the activities of the Labor Department enforcing the provisions of the existing law?

Mr. NEWMAN. We have not in recent years. We were in touch in the past 6 months with the Department of Labor concerning the situation in Maine with regard to an enforcement and looking for statistics themselves, and found that the Department of Labor had almost no idea of what was going on in the State of Maine in terms of enforcement. They had no way of guaranteeing that the law, the new amendments were being followed and they were taking the position that unless a formal complaint was made to them from farms, they did not have the manpower to enforce the law.

It would seem to me that it would be very unlikely for a farmer who was employing children to come and complain that he was using children. So, obviously, enforcement once again is a problem. We have no recent statistics. We have not monitored in the State of Maine or in the States of Washington and Oregon in recent years.

Mr. FORD. Any place?

Ms. STOCKBURGER. We did carry out the study with American Friends in 1970.

Mr. FORD. But we changed the law in 1974.

Ms. STOCKBURGER. We have not since then. We are in the process of updating a report and will be looking at a number of States beginning in the next 2 or 3 weeks over the summer, which we will be trying to document the continued use of child labor as well as some of the conditions which have not been previously documented.

Mr. FORD. Acknowledging the deficiencies of the Labor Department in vigorously enforcing the law that we passed a year ago, and further acknowledging, I guess I have to say, the failure of this committee and other committees of the Congress to bring about enforcement of that law, I am a little bit concerned that an organization like the National Child Labor Committee has done nothing during the ensuing year to find out what the Labor Department was going to do or is doing about enforcing the law. This is notwithstanding the fact that your entire statement is a very articulate, hard-to-disagree-with statement in support of the intended benefit of that amendment, and the fact that you quite justifiably claim credit for being one of the moving forces to have the law changed. You indicate in your statement your disappointment that the age limit was not lowered even further or was not extended to a total prohibition, which I take it would be your preference.

Notwithstanding that great interest over so many years, you now tell us that you haven't done any monitoring or made any attempt to find out what is being done about this new law that is supposed to be so good. I am just trying to share a little of the blame around here with those——

Mr. NEWMAN. I think——

Mr. FORD [continuing]. Who properly hold themselves forth as the guardian of the principles that we are dealing with here. I might simply say that there are a lot of politicians out here who take an awful lot of heat for not doing as vigorous a job with these laws as we should, but where have you been?

Ms. STOCKBURGER. For one thing, we have been working to prevent the various amendments over the last 9 months which have been submitted.

Mr. FORD. Would you not be in a much better position to advise us about the impact or effect, if any, of the amendments if you could tell us something about which is happening to the law that is to be amended?

Mr. NEWMAN. We would, Mr. Chairman, and the only defense I could make is the fact that we have not monitored—and I don't mean to excuse ourselves entirely, is the fact that we had fully intended last summer to proceed with some monitoring of the new amendments—and when *Kelly* v. *Brennan* came up, it became for that period of time, a period of approximately 12 weeks, a moot issue.

Mr. FORD. Only as to two States.

Mr. NEWMAN. As I understood the injunction, I believe——

Mr. FORD. I thought it was——

Mr. MEEDS. In the ninth circuit district——

Mr. NEWMAN. That is correct, but I believe if you were to ask the Department of Labor, Wage and Hour Administration people about enforcement during that period, they would say that until there was a court decision handed down, they had no intention——

Mr. FORD. Is that what they said or what they would have said if you had asked them?

Mr. NEWMAN. That is what they said.

Mr. FORD. They thought that the precedent of that trial judge was binding on the entire country?

Mr. NEWMAN. For that time. And I believe they also felt their inability to enforce it even when there was a law properly gave them just a little more breathing space.

Mr. FORD. First of all, from the information we obtained this morning, 95 percent of the farms in Maine are not covered by the existing law, so that even if it was vigorously and properly enforced, its impact in terms of the total exposure of all farmworkers in the agricultural field up there is not very great, apparently because of the size of the farms and the traditions and the ways in which they operate.

Maybe they have bigger families living on the farms, or more uncles; I don't know. I was a little bit surprised because I thought that the problem, to Maine, was a much greater problem than it seems to be. In other words, it seems that even if the law were enforced, we would be dealing with something less than a significant majority of the people in that industry.

Ms. STOCKBURGER. They have 14,000 children working on somebody's farms. That sounds like a lot of 500 man-hours to me during a 3- to 4-week period.

Mr. FORD. Presumably all the 14,000 are not under 12. And they have just employed the 12-year-olds to get the 500 hours.

Mr. NEWMAN. The total crop picked by the 12-and-under group amounts to approximately 3 percent of the total potato crop harvest in Maine in Aroostook County, and that is also a very small percentage. So, it has always been curious to us——

Mr. FORD. Either way—either with Meeds' bill or without it—the impact on the crop is a maximum 3 percent of the crop.

Mr. NEWMAN. That is right.

Ms. STOCKBURGER. But there are apparently more children out of school since the entire—or various school districts were closed. You may not have all the schoolchildren working in the fields, but they are interrupting their education for that period of time.

I think that is the other serious side effect of the use of any child labor at all in Maine.

Mr. FORD. Do they let all the children out of school, or do they just let them out above a certain grade?

Ms. STOCKBURGER. They close up the school district.

Mr. FORD. Are there other parts of the country where they do this?

Ms. STOCKBURGER. I am not sure that there are any remaining. There has been over the years a tradition in many places, but with the end of cotton, many of those were terminated. Louisiana was the other major State that I know of which has now been eliminated.

Mr. QUIE. Will the gentleman yield?

Mr. FORD. Yes.

Mr. QUIE. Unless they have done it recently—they closed the schools in parts of Minnesota for deer season.

Mr. FORD. We do that in Michigan, too. But, you have to be 14 to take a high-powered rifle to go into the woods in Michigan.

Mr. QUIE. I know that. Some of them do shoot at deer.

As far as Maine, I really can't understand your feeling about interrupting school—if they have their 180 days of school during the year.

Ms. STOCKBURGER. Shall I answer that? My objection to the interruption of school is that they have barely begun to begin school in late August. They have maybe had 3 weeks. In fact, one of the superintendents who testified at the hearing said that it was inexcusable from an educational point of view, but he went on to defend it because of this community camaraderie and so forth, that he found apparently in other places, that that was the thing that everybody did. But, as an educator I would find it very disturbing to have children in school maybe 3 weeks, and then close up for 4 or 5 weeks and interrupt that learning process.

So, that you have got another several weeks—from the 15th of October—that you have to put the children back through the process of getting them accustomed to going back to school and it is a very disruptive——

Mr. **Quie.** Have there been any studies to show that? I know the editors feel that way about Congress. I think they are wrong.

Ms. **Stockburger.** There have been no specific studies in Aroostook County. We hope to take a look at that in the study which we are doing with American Friends this summer. But, I am simply saying that from the point of view I think of most educators, they would feel that any interruption of this kind would not be in the best interest of the child.

Mr. **Quie.** Let me ask you about your attitude on children working. Is it that you don't think a child under 12 should work? Is that the age you would have the cutoff point? Or, would you set it at a higher age?

Ms. **Stockburger.** For working commercial jobs, I would put it at a higher age than 12.

Mr. **Quie.** How about working at all?

Ms. **Stockburger.** If you are talking about some very casual work for the family, or close friends—although I have serious questions even about babysitting for children under the age of 14—I have questions about their ability to be responsible.

Mr. **Quie.** Well, what about working where you are weeding a garden all day or digging fence holes.

Ms. **Stockburger.** I don't think a child ought to spend all day doing the same thing, regardless of what it is. I think that childhood is a very special time and that there are many experiences which they need to have and whether it is considered harmful or not and whether there is any evidence that bending over all day causes difficulties in later life—although Mr. Cohen's bad back—I would like to wonder about early childhood work.

Mr. **Quie.** I don't think he got it from potatoes when he was a kid. I think he picked potatoes after he got into politics.

Ms. **Stockburger.** There are an awful lot of people who have bad backs in Aroostook County who kept testifying that the reason that the adults didn't want to work is they had bad backs and couldn't stoop. So then where there is any connection or not, I feel very strongly that we ought to provide suitable environments for children to do their learning.

Mr. **Quie.** And working is a part of learning?

Ms. **Stockburger.** Under the age of 12, I don't see working for hire as a part of the learning process.

Mr. **Quie.** You are talking about two different things. Working or working for hire.

Ms. **Stockburger.** If you are talking about a child who lives on a farm who is working with his parents in the family garden, that is one thing. But, if you are talking about the child that goes down the road and hires himself out to work that is another thing. And, I would say under the age of 12——

Mr. **Quie.** Even if he is doing the same thing?

Ms. **Stockburger.** Yes; in an altogether.

Mr. Quie. Previous witnesses have said that. I don't understand what the problem is because I think there is something healthy and educational about earning something. My son when he was 8 years old picked vegetables that he raised in his garden in Silver Spring, and got a stand and sold them.

But, due to the fact that he was a merchant, he was self-employed. I think that was quite an educational kind of thing. And, when he went over and worked for the neighbor and got paid to do something, I thought that was educational for him. But, you think that is not.

Ms. Stockburger. I don't think that is the kind of policy that we would want to endorse for the population saying that we think that every child should have a garden and have a roadside stand as a part of his education process.

Mr. Quie. You don't think so?

Ms. Stockburger. I don't think that is a part of the total social policy; no.

Mr. Quie. I think it would be good, myself.

Ms. Stockburger. We may not prohibit that particular thing from happening, but I don't think we want to go so far as to say that that is the birthright of every child.

Mr. Quie. It used to be the birthright of every child until just modern times. This is the first time the children didn't do something worthwhile in their own eyes and worthwhile to their own community about the time they reached puberty. I know you are talking about a period earlier than puberty—you are talking about below 12. They were right from the beginning learning as a part of working. Now, we are talking about career education and unless something has happened, children don't know anything about work. A study made in Chicago asked students what they wanted to do. All they knew was to be on welfare or to be a welfare worker. There is something wrong there.

I started milking cows when I was in first grade. I look back on it, and I don't think it hurt me. I try to duplicate that, even though I am living in the city with my children. I just happen to have the financial means to do it. If I didn't have the financial means—to have some animals and a large enough garden to put them to work—then they would be denied what I think is an opportunity for my children.

Ms. Stockburger. That is your children. You are supervising them and you limit what they do. You probably have a good idea as to what their limitations are. I think when you start talking about legislating children to work it is an entirely different thing and none of us have ever held that we ought to legislate that children should not work on farms with their parents, although there are serious questions about the accident rate.

Mr. Quie. The reason why I am kind of attracted to Congressman Meeds' legislation is that I look at this as giving an opportunity to do something similar in those strawberry fields and those places there. I don't know about potatoes, because I haven't been over to pick potatoes in Maine.

Ms. Stockburger. Sixty-five pound barrels are pretty heavy.

Mr. Quie. The kids aren't raising those. The adults carried those heavy pails.

Mr. **Newman**. Is there something in the law that stipulates that a child can't pick up 65 pounds?

Mr. **Quie**. No.

Mr. **Meeds**. Will the gentleman yield?

Mr. **Quie**. Yes.

Mr. **Meeds**. There certainly is. "Would not be deleterious to his health and well-being."

Mr. **Newman**. But that is a very open statement.

Mr. **Quie**. You would have to be open on something like that, it seems to me. We once tried to settle on the weight that a woman could carry. Now, that is discriminatory. So, times do change.

I don't want children to be exploited. I would not support that legislation. But it seems to me—and we may have to tighten this up—there was a suggestion proposing an additional amendment having to do with machinery, but to me, what Mr. Meeds is suggesting is physically and mentally healthy.

Ms. **Stockburger**. I think what you cannot do is to stop there. You can't stop with the fact that this might not be harmful to that because they are children doing that particular work. You have to see what the total effect on the economy on other children who may not be able to work because we have heard testimony here today about the other groups of children who would be prohibited from working.

Now, I would like to point out that when Miss Guido was talking about the settled-out migrant, we have Federal legislation which recognizes that for 5 years after the child is settled-out he is eligible for compensatory education under that law because it recognizes that he needs that extra amount of education to compensate for the years in which he was migratory.

And, I would point out that if this waiver goes into effect, that this would allow those children to return to the fields. Last summer in Oregon it did happen. It was testified to in the court hearing that the day that the injunction took effect, that the school attendance in the summer schools dropped drastically because the migratory children and the settled-out children who were enrolled went back to the fields.

Mr. **Newman**. And we go beyond that to the realities of the enforcement problems. And, as Mr. Arredondo so eloquently stated, there is no way that we can guarantee that there won't be tens of migrant children in the field. We can't even guarantee that that is so now, so with the exemption, we think it would be virtually impossible.

Mr. **Quie**. I recognize that. But most of the testimony was saying that if we were discriminating against them——

Ms. **Stockburger**. I think it is an unfair application in regard to the law, regardless of whether the effect is desirable or undesirable.

If you are going to go the route of Meeds' bill, we ought to open it up a little further and let the migratory children——

Mr. **Newman**. I think we were just rather making the argument to point out——

Ms. **Stockburger**. I don't think any of us have said that we want any children to be in the fields. We were simply pointing out that the question of constitutionality and the unfair application of the law as being a problem if you go with this waiver. I think that is the feeling of a great many of us.

Mr. Quie. I look at this as trying to limit the bill so we would not be exploiting anyone. I commend him for trying to write it that way and the fact that we are doing it, I don't think, means that we are going to expand the legislation in any way.

Any additional people would be scrutinized carefully.

Ms. Stockburger. In so doing, you are invalidating one of the purposes of the amendments in the first place which was to eliminate child labor as an available labor source and to allow the wages and the source of labor to level out and I said in Louisiana, we heard arguments all along that they would lose those berries. They just couldn't get that harvest in if they didn't have those children out of school. I mean, this was a crack down 2 weeks before the season and they managed to find labor and that was a concentrated area with 300 children in one small county and one crop and a very poor area. These were farmers who owned maybe 10 acres of land because that is the peculiar nature of that part of Louisiana.

Mr. Quie. That is all I have.

Mr. Ford. Let me see if we can't come to some agreement on a philosophical approach. In my own career, I have been switched around. As the vice chairman of the judiciary committee in 1960 and 1961, I led a successful fight against the reformers who wanted to copy the New York system on juvenile courts. I was successful with the help of a lot of other people in preserving in Michigan the maternalistic system of the juvenile courts jurisdiction over all children under the age of 17. And, the basis of that maternalistic system was very sound the time that it was originally put in the constitution in Michigan in 1908. That was the pattern that was followed by every State that came into the Union thereafter.

It was so strongly felt that it did become part of the States' constitutions. At that time, I was thoroughly convinced by the argument that children, subject to the jurisdiction of the court, should be protected from the kinds of things that happen normally in a court where you have an adversary proceeding.

Now, I have found myself in recent years not only arguing against that but arguing in fact that the child, regardless of his age, is entitled to legal counsel. In fact I feel it is the duty of the Government to provide that legal counsel and that is a violation of the child's rights to conduct any kind of a proceeding with respect to that child in anything except an adversary setting. That way, someone appointed to represent the child's interest can guarantee that all of the protection of the Constitution, including all of the appellate processes, would be exhausted and you are not left with simply the local mores and folkways of the juvenile judge.

Now, that is not very many years ago and I think you will agree with the progress that has been made in the rights of children last year.

Mr. Quie and I, and also Mr. Meeds, in the conference committee, agonized for hours over how to put into Federal law protections for children as students in school with respect to their status. So, the entire trend that we have been going through is to recognize people as people without artificial barriers with regard to age. I don't say that this is in any way leading toward saying that children can do everything that everybody else does, but some of the ideas that we had a few years ago about the proper way to protect the child in society have changed very dramatically.

What troubles me here is when we talk only about this kind of legislation, we start off with the laudable presumption that children are to be protected; we take into account the restraints and restrictions we put on children, their families, and others in order to accomplish that protection.

I have been sensitized very recently to the idea that what I thought were good laws for the special protection of women are now viewed by women—and I have come around to agree with them—as being something that is no longer consistent with modern society's idea of a woman as a full human being with equal rights.

Now, some place in here, it seems to me, we have to do a little bit more reasoning than is projected when we arbitrarily say that no child under a certain age should be able to earn money, no matter what it is, and that you even qualify that by saying that it is all right if it is on the family farms. So, presumably if it is the uncle who raises 50,000 acres of a crop, that is OK. But, not if it is a neighbor. We always get hung up in these things when trying to get specific exemptions. I don't think anybody on this committee would even be considering this legislation if it was thought that this was in any way to be construed as a reversal of the concern publicly expressed by the Congress on numerous occasions of the special status of children and the need to protect them, as we have recognized the special status of other identifiable groups in society and the needs to protect them.

The difficulty is when we take rigid positions, one way or another, then the real question is whether you will ever have support for real enforcement of the law if you discover that, out there among the people who normally are crying for law order and for the enforcement of the laws, you lost the confidence of the people because it does not seem reasonable to them that the law goes as far as it does.

An example that I can think of was the reexamination we have done with regard to the use of substances like marihuana and the terrible agony that we are going through at every level of government to determine whether, in protecting people from it, we don't damage them more than the protection we are trying to afford.

And, when we take a rigid position on these things, one way or another, it seems to me that we are asking for real trouble, because if the people out there on the farm don't believe in this law they are not going to obey it. And, my suspicion is that, even if we had an ambitious, vigorous Labor Department trying to enforce the law, it doesn't have the kind of connotations in many communities, like Mr. Meeds has described, that will produce enforcement. I can't see a complaint out there unless you got an angry neighbor. That is unfortunate. The laws are enforcible if people want them to be enforced.

We may examine the possibility of whether if we keep the law on its face, as rigid as it appears to be, we lose the constituency that is necessary and ultimately see that the kind of children that we are trying to protect and are not exploited——

Ms. STOCKBURGER. Are you saying that the rights of children to be protected are dependent upon the adults who make the laws and enforce the law—and want them enforced.

Mr. FORD. I am saying that any law that does not in any given community find the folkways and mores and customs of that community acceptable is not going to be enforced in that community.

I am saying that if you lose those people it is not going to be enforced anyplace else, either.

Mr. NEWMAN. Mr. Chairman, I believe that there are studies that we could cite that would show that in the mines and the factories back in the 1920's and 1930's, the communities thought differently. This is a matter of time. The Congress of the United States deciding that they—taking it upon themselves to say—that they are enacting legislation which they believe to be in the best interest of children.

Mr. FORD. Recently in Detroit, we had an unfortunate incident of a 15-year-old girl going to the front porch to deliver a newspaper. The occupant of the house was subsequently determined to have been a trafficker in dope who had been tipped off by the police department that a hit man was looking for him. When she jumped up on the porch, he opened up and shot her 13 or 15 times. I am just wondering where we all were when this law went through that we so quickly accept as a matter of faith that delivery of newspapers is clearly desirable—so much so that it isn't subject to regulation by the Federal Government.

Ms. STOCKBURGER. I know where we were. We were opposed to those waivers being granted and would still be opposed.

Mr. FORD. I think also that is an illustration of what I am talking about. I recall a period in Michigan when it used to be the custom for politicians to brag about how they got their starts selling newspapers. It is so deeply ingrained in people's minds that a proper way for a child to learn responsibility and get some money is newspaper delivery that even this sensitized Congress at the time that it passed this legislation was afraid to touch the newspaper business.

Now, what we are talking about is people who are telling us that there are other areas where the customs and habits are such that we ought to be at least considering it.

Ms. STOCKBURGER. And now, after years, it is dangerous to deliver newspapers and the waiver probably should never have been granted and it seems to me that we shouldn't make that mistake again in agriculture.

Mr. MEEDS. Thank you, no questions.

Mr. FORD. Mr. Blouin.

Mr. BLOUIN. I hate to keep bouncing back to this crazy newspaper thing, but I don't think you can compare the two. The danger of delivering newspapers isn't in the work. It is in the hours and maybe the crime rate in the neighborhood and so on. I can't buy the logic—I am trying to agree with you—I can't buy the logic that because they are exempted that automatically you should accept another group. I think it is a totally different ballpark.

The decision that I have to make on this whole exemption process is whether or not exemptions are something compatible with law, and second, does this just zero in on the problem that we are trying to solve. And, that is where I get hung up. I don't think it does.

I have one question on line 17 dealing with one of the requirements—well, maybe Mr. Meeds could get into this with me, Mr. Chairman, maybe this is something we ought to talk about in markup, instead. But, if it is, just stop me and we will wait.

I am talking about the individual being employed outside the school district where he is living while so employed. Could that be interpreted as you read it as being temporary?

Ms. STOCKBURGER. No.

Mr. BLOUIN. You think it is clear enough to where it has to be permanent. Do you know what I am getting at?

Ms. STOCKBURGER. I think you would have to go back to the original Fair Labor Standards Act, which has an interpretation on the basis of residence, does it not?

Mr. BLOUIN. How does the Fair Labor Standards Act interpret residency? Isn't that a state of mind?

Mr. FORD. If the gentleman will yield, I think it has been clear and Mr. Meeds is going to correct me—that we intended for permanent residents and I am sure that we could spell that out in the report so that there would be no question of the intent that this is not anything in a temporary way.

Mr. BLOUIN. Well, permanent residency in that context is the state of mind. It is whatever the individual wants it to be and there have been court rulings all over the country on that, from State to State dealing with one's right to vote in a State, one's right to receive State tuition—consideration as a resident of that State, and so on. You can tie certain requirements to it, but if you, as an individual, say—that is my permanent address and I just happen to roam around the country 12 months a year, legally, that is your permanent residence.

Mr. MEEDS. Will the gentleman yield?

Mr. BLOUIN. I am wondering whether we are carving out a whole new concept of migrant movement.

Mr. MEEDS. If you will yield I could answer the question if you will think just one step further. You will realize that the residence of a minor is the residence of a parent, so it would be necessary for the parent to be trying to——

Mr. BLOUIN. I could think of all sorts of situations in the past that apparently the restriction initially tried to stop that—where whole migrant families were pretty much forced—it is almost a condition of employment, and if we get back to that kind of a situation with any kind of a law—I could think of various employers who would undoubtedly require that whole families declare this as their permanent residence for the purpose of being able to put their younger kids into the field.

Ms. STOCKBURGER. For the purpose of the Fair Labor Standards Act, as I recall; it reads the same way—from the school district that he is living in while he is employed and he may not work if the school is opened in that district. That is considered his residence for school purposes.

Mr. FORD. Unless he is a migrant.

Ms. STOCKBURGER. If he is a migrant——

Mr. FORD. It doesn't become his residence for 5 years, and that was a deliberate discrimination that Mr. Meeds was instrumental in putting into the law.

I notice you are concerned with the activities of the migrant education center. If you will look at the distribution of title 1, I am sure that you will find that by putting in the 5-year provision and, with the help of Mr. Quie, taking their money off the top have had a very substantial effect of changing the amount of money available for their education. We weren't doing that to make them ineligible to work.

We were doing it to keep counting them longer so that the school would keep concentrating on them, because so long as they do provide a program for them they can collect money for them for 5 years after they have settled out.

Ms. STOCKBURGER. Are you saying that they wouldn't be considered residents during that 5-year period?

Mr. FORD. In the general provisions of the Education Act, we find a migrant is a person who is actually in the migrant stream up until 5 years when his family settles down. That was to keep the definition so that we would not just drop them because they settled down. We may pick that up. I don't know of any other exception to general residence.

Mr. BLOUIN. I think this confuses the issue. I had understood this to refer only to so-called permanent residence but I would have considered a 5-year settled-out migrant a permanent resident.

Mr. MEEDS. Will the gentlemen yield? Maybe I could help clarify—one, this is the same language that we have under the exemption for hand harvest labor which is already in the act. There is already the interpretation of it. It is specifically in there and the legislative history is in there for the purpose of excluding migrants.

Two, the section that Mr. Ford is talking about is a section which we put in the OEO and we put in the Education Act solely for the purpose of allowing migrant funds to continue to go to settled-out migrants for a period past their initial settling in—from the time they were migrants.

So, therefore, migrants who have been there at any time and settled in to a community would become permanent residents under the meaning of this terminology.

Ms. STOCKBURGER. Would they be then excluded from other kinds of legislation requiring them to be residents?

Mr. MEEDS. No.

Ms. STOCKBURGER. Only for the purpose of that law.

Mr. MEEDS. The purpose of that law was to help migrants.

Mr. FORD. They get the benefits but not the disadvantages.

Thank you very much.

We have two additional inserts for the record, and I ask unanimous consent to consider the letter and statement from Mr. Ron Taylor, the distinguished author of "Sweatshops in the Sun"—and I am reading the editorial comment here—"one of the best known documentaries on child labor," and a letter and statement from Nancy R. Duryee on behalf of the American Friends Service Committee. Without objection, they will be added for the record.

[Material referred to follows:]

VISALIA, CALIF., *April 15, 1975.*

Congressman WILLIAM FORD,
Agriculture Labor Subcommittee, House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: I am sorry that I can not personally attend the hearing April 18, on child labor on the farm. I would appreciate it if you would make as part of the record the testimony I gave before the Senate Labor Committee in Portland Oregon, December 1974.

I have talked to Tom Jolly and he has said he would get the testimony from the Senate side.

I wish to emphasize that I oppose the use of children in factories, in the mines and the fields. The Congress has outlawed the use of children indoors and underground and it is time we recognize farms are not a good place for children to work.

Sincerely yours,

RONALD B. TAYLOR.

THE MYTHS OF CHILD LABOR

I have titled my testimony today "The Myths Of Cild Labor" because I believe that is what we are dealing with here, a set of romantic notions, an elaborate structure of twice told views and half truths that give expression to some deeply held emotions. I want to examine these myths with you, and then add my comments and observations.

But, before I do I should like to qualify myself. I am a newspaper reporter, magazine freelance writer, and the author of two books on farm labor. Twenty one years ago I graduated from Washington State University with a degree in agriculture and a minor in journalism; while at WSU I was also a rodeo cowboy, traveling through this great Northwest and, although I never stayed too long in one spot, I became fond of the entire region.

While I now live and work in the San Joaquin Valley of California, I visit here whenever I can, and I'm now at work on a historical novel that involves the cattle and fur trade between the Willamette Valley and California in the 1830s. Essentially I am a rural person; I live in a small town and I have specialized in reporting rural problems. I have written extensively about a full range of farm problems, from the nuts and bolts of building a better cultivator to the sophisticated tax shelter schemes developed by the conglomerates, schemes that have little or nothing to do with the profitable production of food, schemes that commit tens of thousands of acres to tax loss ventures that compete with the family farmer who must sell his crops at a profit to survive.

I preface my testimony with such information because I know that in farming areas like the Willamette Valley, my testimony will be unpopular and I wanted to show—before the emotions begin to stir—that I have some background for what I am about to say. As a reporter I have specialized in the problems attendant to rural poverty; prejudice and privation. Over the years I have written thousands of words about farm workers and their families; although the children were sometimes a part of those stories, usually the focus was on the problems faced by the families and/or the adult workers.

A Boston book publisher, Beacon Press, saw some of my farm labor pieces in a national magazine and asked me to write a book on child labor on the farm. The approach to the book—"Sweatshops In The Sun"—was national; I traveled the eastern migrant stream, from Florida to New Jersey, I went into Texas' Rio Grande Valley and Oregon's Willamette Valley to supplement the material that I had gathered in California over the past decade and a half.

"Sweatshops" was my first real attempt to focus on the world of those small workers who have always been in sight, but who have so long been ignored. Now, as I drive through the countryside, I find myself looking for children at work, and I see them in surprising numbers and I've begun to realize that we—you and I—see these children only as observers conditioned to the fact that child labor on the farm was, and still is a common—an even desirable—occurrence that is in no way out of the ordinary.

Child labor is a part of our American traditions, part of our mythology. A judge of a small justice court in rural California fined an employer $33 for allowing an 8 year old boy to drive a tractor. The boy's job was to pull a trailer loaded with bins slowly along beside a mechanical tomato harvester. As the machines—tractor and harvester—moved through the field, the boy had to position the bins to catch the fruit pouring off a conveyor belt that projected from the side of the harvester. The boy was so small he could not reach the tractor clutch or brake pedals. When he wanted to stop, or to shift gears, he had to slip off the seat, then step on the appropriate pedal.

The judge agreed the job was dangerous but argued the fine was appropriate "because I was driving a tractor when I was 8 years old. I have a strong belief that 90 per cent of our delinquency is caused by the fact that the state has legislated children out of jobs."

The state and federal governments have legislated against child labor, to a limited extent. These laws were passed—after a long, bitter struggle—to prevent the exploitation of children in the mines, the factories and textile mills, and later they were amended to safeguard children from the dangers of mechanized farm work. I don't think the judge—nor the farmers of the Willamette Valley—want to see children exploited, nor do I believe he—or they—argue for 8 year old or 10 year old tractor drivers. The words of the judge, the farmers, the town merchants and their legislative representatives have a deeper meaning when they argue for the labor of children; they express the commonly held belief that labor is virtue and that labor on the farm is the essence of American virtue.

That is the basic premise upon which the mythology of child labor rests; as a result of this premise, and the elaborate mythology structured around it, the Congress is being asked to amend the federal law to once more allow children under 12 years of age to work on the farm. If the amendment is passed into law, the message is clear: the nation's policy condones and encourages child labor. I am convinced this is a mistake, but I also know that my views are in the minority. Child labor on the farm is clearly popular, and on the increase. In 1952 a Presidential Commission found 350,000 children under the age of 16 at work on the nation's farms; in 1970 one of this committee's subcommittees found 800,000 children under the age of 16 at work legally or illegally on the farm. In California, where it is against the law to work children under 12, the law is ignored. When 10,000 children under 12 work in the raisin grape harvest each fall—and that number constitutes one third the total harvest force—no one seems greatly concerned. Even when children are killed working illegally on the farm the prosecutors and judges shrug off these "accidents" or, if forced to act, impose token fines.

In 1971 a special American Friends Service Committee task force found "The use of children as industrial laborers was outlawed under the Fair Labor Standards Act of 1938, yet in 1970 one fourth of the farm wage workers in the United States are under 16 years old."

The newswires carried stories reporting the AFSC was opposed to the continued use of child labor on the farm. This position prompted hundreds of letters and newspaper editorials critical of the AFSC position. Two examples of these replies appeared March 24, 1971 in the Salem, Oregon newspapers, the Capitol Journal and the Oregon Statesman. The Capitol Journal summed up the myth: "Work is a builder of character, believe it or not . . . beside having the comradeship of other youths in the platoon, young pickers learn the value of a dollar and the joy of recreation earned; they gain a self respect . . . because of having contributed to the world's needs; they have helped save the strawberries and beans for canning; they have earned their own spending, clothing and school money . . ."

Not a word was written in the editorial about low wages and the unemployment existent in the Willamette Valley at the time the AFSC investigators were there, making their observations. The editorial used great heapings of the myths to sugar coat reality. The Statesman was a bit more candid in its editorial: "The Willamette Valley has had trouble in the past fending off legislation in Congress designed to strangle this system, which not only works to the benefit of mid-Valley children in general, but to the farmers who would not be able to harvest their crops without the youngsters."

The farmers would not be able to harvest their crops without the youngsters. That is the key thought, those words strike to the very heart of the issue: Economics, not mythology, govern the berry harvests and bean harvests. I will have more to say about this point in just a few moments, but first I would like to examine the myths in just a bit more detail, because I think these two newspapers have put us on the right track, if their thoughts can be blended.

And I want to emphasize these two newspapers' views are in no way extraordinary; they have summed up the attitude of rural America, as it was expressed in several dozen editorials directed at the AFSC child labor report. Almost in unison these writers asked: What better place for a child to learn the lessons of toil than in the open fields and vineyards first plowed by westering pioneers? Western man cleared the wilderness, plowed the virgin soil, took a woman to wife and together they created a work force in their own image, the boys to split the rails and harvest the crops, the girls to cook and sew and card and churn. And after the chores were done, the children likely walked some miles to school where they read in McGuffey's Reader: "I doubt if any boy ever amounted to anything in the world, or was of much use as man, who did not enjoy the advantages of a liberal education in the way of chores."

While there are values to be found in these myths, there are also harsh realities that have been cloaked in the romanticism. The family farm depended upon cheap labor. As the plow was put to the great mid-continent plains, the family supplied cheap labor. But in the South the labor on the plantations was that of black slaves. In the West, the great land baronies carved out of Mexican land grants or created by the manipulation of United States land laws, met their needs for cheap labor by importing Chinese "coolies" or Mexican "peons" or Filipino "boys" or Dust Bowl "okies." Here in Oregon, you imported migrants, recruited school children and employed those from the city who could find no work elsewhere.

The slave, the imported worker, the child that helps in your harvests all have one thing in common: they are—or were—cheap sources of labor. The economic dollar and sense of this becomes apparent when a comparison of industrial and agricultural wages is made; if farmers paid industrial wages it would cost them $3 billion more each year, if you use 1971 figures for comparison. This is a direct subsidy, granted specifically to agriculture by the state and federal governments through laws that either exempt or shelter agriculture from social reforms. But the fact that farm workers remain outside the National Labor Relations Act, beyond the benefits of unemployment insurance, beyond the effect coverage of social security benefits or minimum wage guarantees are all subject for other hearings on other bills.

There is but one question here, and that is should the Congress grant farmers the right to employ children under 12 years of age? Stripped of the romantic notions presented by the farmers' advocates, the central issue then is really economic. The farmer can not harvest his crop of strawberries or beans without the help of children 5 or 7 or 10 or 11 years of age.

Once the transition has been made from mythology to economics, the arguments shift their premise; the agricultural advocates then begin to base their logic on the desirability of preserving the family farm; the family farm must have special privileges if it is to remain economically viable. While the plight of the family farm has been well publicized, while billions of dollars are spent propping up what is called "the family farm" economy, there are great profits being made in agribusiness, profits earned by great corporations that grow, process and market farm products as one part of a complex corporate structure. But these kinds of profits—the profits that drive food prices up, while farm prices decline—are never in full public view. We see the "poor farmer" fighting to keep his costs down by hiring children to save the strawberry and bean crops, but we hear too little about the corporate structures and tax loss "farmers"—and that should read doctors, lawyers, oil companies, etc.—who drive land prices up, add agricultural products to a market supply without feeling the same kinds of economic constraints that force the traditional family farmer to produce his food product at a profit.

If you dig a bit deeper, right here in the Williamette Valley, you will find another economic picture that gets lost in the romanticism of the child labor-family farm myths. The farmers here, with the help of the schools and the federally funded, state operated farm labor employment service, recruit 30,000 or 40,000 children to work in the fields in direct competition with local farm workers and unemployed industrial workers in nearby cities.

I base this statement on conditions reported here by the AFCS, conditions I found here when I was researching the child labor book and, most significantly, conditions reported by the Oregon State Department of Employment in its annual report on the 1970 crop year. Because of the AFSC and the state reports use the 1970 crop year, that will be the period I am talking about now.

In that season—as the local newspapers' editors looked back to respond to the AFSC report—it was argued the farmers needed the labor of the children. But that argument was made for a period of time when there was actually a surplus of labor in the Willamette Valley. State officials reported a "plentiful supply" of workers because of (1) a strong school recruitment program for seasonal strawberry and bean harvest workers and (2) an unusually high unemployment rate which cause family units to seek and accept agricultural employment in order to maintain family income.

"The usual supply and demand" for labor around Corvallis, for example, "was in good balance through most of the summer, with no serious shortages developing . . . this was attributed to poorer economic situations and better school recruitment response . . ."

The state report from Oregon City (just outside Portland) found "large numbers of unemployed factory and industrial workers began driving out to the berry fields in such numbers the growers were actually turning them away . . ."

I want to draw attention to the words used by state officials of the department of employment: "supply and demand was in good balance" because of "poorer economic situations." The farmer offers such unattractive wages he must wait for poor economic times to have an abundant supply of workers. While the farmers may argue—with some justification—that 1970 was an unusual year, I would like to suggest that they take an economic look around right now. Times are hard, and getting harder, we enter a recession possibly headed for a depression. Do we want to make it a national policy to put the labor of children ahead of the labor needed by the unemployed adults to feed their families?

Frankly, I am shocked and amazed to hear anyone argue the employment of children as young as this is needed in any industry at any time; but to argue now that the farmers need children under 12 years of age flies in the face of logic.

There are workers in this valley—former migrants who have settled here—who are put out of work regularly by the child labor platoons from the cities. These migrants turned settlers now must either find non farm jobs—and continue to send their own children to the fields—or they once more must go back on the road. These are professional farm workers. While researching "Sweatshops" I interviewed several of these families, talked to the teenagers who go to high school in Woodburn, a small farming town in the Willamette. They pointed out that where the family once could work long hours in the fields they now could find only a few hours of work daily because so many workers were in the rows the fields were picked clean by early afternoon. Not only were the work days shorter, but the seasons were over sooner.

I also talked with Mexican migrants who come into this country each year as "green card" aliens, traveling into the Northern California early apples, then into the Oregon strawberries and back to the fall apples in California, near Santa Rosa. In 1971 a crew of these migrants, angry because the Willamette strawberry grower they worked for paid only 80 cents a flat, struck, asking for $1. Because the harvest season had begun, the farmer upped the rate, rather than risk a loss while he found other workers. This crew included large numbers of children, the sons and daughters of the migrants.

When they got back into the apples in California a 15 year old girl decided to lead her own strike. She was working in a crew of children, ranging age from 5 to 15. Most were Mexican migrants, but about a third of the crew were children from the local area, anglo kids working much as the "platoons" work here in the berries. They were being paid a few cents a bucket to pick the apples off the ground. The girl led the migrants in a protest, seeking a penny a bucket more, because in her memory their pay had never been raised. The strike was "broken" by the anglo kids and the Mexican parents were told to get their kids back in line or they would lose their jobs.

What harm is there in children picking apples off the ground? That depends upon who the children are, and where they come from. It would be difficult to argue that a few days or weeks of work for my 14 or 15 year olds in apple orchards or berry vines would be physically debilitating, if everyone followed the rules. But everyone doesn't follow the rules. This same crew of children in the apples were being hauled to work on flatbed trailers being pulled by tractors—a violation of both state and federal law. Even the littlest were helping load apples into the bins, lifting weights beyond their capacities.

Farmers everywhere in the United States argue the farm is a safe place for children to work, yet the National Safety Council accident and death statistics show agriculture labor is the third most dangerous occupation in the nation. NSC statistics for the 1970 year show 2,400 accidental deaths and 200,000 disabling injuries on the American farms. Tractor accidents were the leading cause of death and injury. While there are no national statistics on the injuries to children, a 13 state study of 789 tractor fatalities found 12 per cent of those killed were between the ages of 5 and 14 years, too young to legally be driving, riding or working around such machinery.

To bring the picture a bit closer to the seat of this hearing, in the Willamette Valley in 1970, several months before the Oregon newspapers extolled the virtues of child labor in the fields, a 14 year old local, anglo boy was crushed to death when he fell from a tractor being driven by a 13 year old local, anglo boy. The father of the dead youth is a disabled farm worker, a former migrant who had recently settled in the Willamette. He said that his son had gone into the fields to pick beans, not work on a tractor. But once he was in the field, a foreman offered he and the 13 year old a chance to set irrigation pipe.

The pipe was carried on a trailer pulled by an old tractor. The boys alternately drove the tractor from place to place. At the time of the accident Michael Hays was standing on the rear axle housing, hanging on. The tractor hit a bump and he was knocked down, in front of the big rear tires. One rolled over him, crushing his chest. The death rated four or five inches of copy in each of the local newspapers, the same papers who took the AFSC to task for meddling in local affairs.

Obviously no one wanted a boy dead, but from the evidence I found in the 1970 state employment annual report, farmers do need young boys to drive tractors and the government is willing to help out. The report stated: "It is getting increasingly difficult to find farm workers with the skill and experience required to run modern farm equipment who are willing to work for wages that farmers are able to pay."

Having made that determination, the state employment report then revealed its agents, in cooperation with federal manpower people, were establishing training classes for 14 and 15 year olds. The Fair Labor Standards Act requires "safety-training" before such youngsters can be permitted to drive tractors, and the taxpayers were supplying that training. How about those unemployed factory workers from Portland or Oregon City? Could they do the work? How about the seasonal migrant; could he be trained? Apparently these adults would require more money than the farmer could pay.

There is built into such circumstances a vicious Catch-22. The local worker cannot find work, so he must go on welfare: the farmer then singles out the local workers who are unemployed and on welfare, calling them lazy and shiftless. This is the farmers' excuse then to turn to a supplemental supply of cheap labor, one that cannot rebel, that cannot strike. It is interesting to note that as the school children get older, they drop out of the low paying fields and try to find higher paying jobs to finance the higher costs of high school, junior college and college.

I have tried here to present some of the myths and what I believe to be the truths hidden behind these myths. I know the family farm is in serious economic trouble, and I know that child labor is intricately tied into the larger complexities of farm economics. But I don't believe that it is sound national policy to salvage the family farm by using child labor. If the family farm is to be saved, some kinds of controls are going to have to be imposed on corporate and conglomerate farm managers who now manipulate great profits and tax advantages out of the rural countryside. Even then the family farm may go the way of the mom and pop grocery store, the village blacksmith and the cobbler. The process is already far advanced. But these are other issues for other legislative arguments. The question before us here is whether or not children under 12 should be allowed to work on the farms.

Gentlemen, I do not care what safeguards you suggest, I do not care what great police efforts you mount to insure those safeguards, you can never convince me that it should be the policy of these great United States to authorize and expedite the employment of children under 12 years of age because an industry can not afford to pay adult wages. If it is in fact a good, sound policy to educate our children in the virtues of labor, then let's make an open, honest, federally funded educational project to accomplish that end.

But let us not sugar coat the economically sterile philosophies of a few farmers with an elaborate set of mythological nonsense and then declare the United States government in full support of something so crass, so avaricious, as child labor. It is time to put to rest, once and for all, those myths. The farm is not a good place for children to work, just as no factory, no mine, no cotton mill is a good place for children to work.

To argue that the farm is different—or that the Willamette Valley farms are the most different of all farms—is callous, to argue that child labor is good because the fields are lush and cool and the air unpolluted is a callous effort to mask the truths of child labor. It is time such nonsense was put aside, it is time that we all—the urban and the rural communities—begin to seek other solutions to the rural farm problems.

To argue that several thousand Willamette Valley youngsters are somehow benefited by the joys of working in the strawberry and bean fields at a time when unemployed industrial workers are being turned away from those same fields is fatuous. To argue for the labor of urban children who are somehow taught the virtues of labor by displacing professional farm workers is to reach for the heights of self-deceit. Especially when such arguments are used to keep wages low, so low the professional farm worker cannot earn a living for himself and his family.

The professional workers' answer to such employer tactics has traditionally been to band together into collective power units called unions. But the farm workers have been denied the protection of a law that has allowed other workers to form strong unions; with the aid of Congress the farmers have been able to subvert the will of the professional farm workers time and again, for decades. The farmers have used the most powerless workers, the slaves, the imported "peon" or "coolie" or "boy", or the children to help them reap the harvests, and they have argued successfully for 40 years they have had to take such a course because they could afford to pay no more.

If you pass this amendment to accommodate the farmers of Oregon, Washington, Michigan and Maine, then why not pass it for all of agriculture? Why not admit this nation can not harvest its crops without the labor of tiny children? That has been the policy of the federal government until recently. And now the one very small step made to outlaw the use of those small children under 12 years of age is to be swept aside? I hope not.

I would like to close with a thought from Elizabeth Barret Browning's "The Cry Of The Children:"

"How long," they say, "How long cruel nation,
Will you stand, to move the world, on a child's heart——
Stifle down with mailed heel it palpitation
And tread onward to your throne amid the mart?" "

American Friends Service Committee Inc.,
Philadelphia, Pa., April 15, 1975.

Tom Jolly,
Counsel to the Subcommittee on Agriculture and Labor, House Office Building Annex, Washington, D.C.

Dear Tom Jolly: As I indicated to you on the telephone yesterday, the American Friends Service Committee wishes to submit a statement to the Subcommittee in regard to the Meeds-Hatfield amendments to Public Law 159—Section 25-B.

It is not possible for us to testify on April 18 but we understand that among others doing so is the National Child Labor Committee and we would of course be in sympathy with their position as we work very closely with them.

Enclosed is our statement which we hope you will duplicate and give to members of the Subcommittee.

We will be watching the outcome of the Meed Bill hearings in the Subcommittee with a great deal of interest.

Sincerely yours,

Nancy R. Duryee,
Community Relations Division.

Prepared Statement of American Friends Service Committee

Mr. Ford, other members of the Subcommittee on Agriculture and Labor of the House Committee on Education and Labor, the American Friends Service Committee appreciates the opportunity to submit the following statement on the Meeds-Hatfield bills to amend Public Law 259, Section 25-B. My name is Nancy Duryee and I am a member of the staff of the Community Relations Division of the American Friends Service Committee. This brief statement is on behalf of the Committee and many like-minded Friends. (No single body can speak for the Quakers, the Religious Society of Friends).

The American Friends Service Committee (AFSC) is a Quaker organization, its work made possible through the support of persons of many faiths. The Committee undertakes programs of relief, service and education. We reject war, violence and exploitation as violations of human rights and dignity. The Committee maintains an office in Philadelphia, Pennsylvania, ten regional offices throughout the United States, and works in 14 countries of the world.

It is our concern for people of this country who are exploited by its institutions as well as our censure of any economic system which not only exploits but impugns the dignity of any human being that has led us to be interested in the problem of child labor in agriculture in the United States. Child labor in agriculture we define to mean the use in commercial farming of children under 16 either during or out of regular school hours. We fail to understand why in certain parts of the United States it is necessary to use children in agriculture—agriculture which is a $28 billion (1972) industry in this country and, after construction and mining, the most hazardous. In most states children under *16* are forbidden to work in offices, factories, restaurants, and it is not too many years ago that we witnessed successful efforts to prevent children under 16 from working as newspaper delivery boys, particularly those who delivered morning newspapers for an hour or two before going to school.

The passage in March of 1974 of Public Law 259, Section 25-B, which forbids children under 12 from working in the fields except those owned by their famlies is a good beginning to the elimination of child labor from commercial agriculture. While we felt the age limit should be set at 16 and so testified before the Subcommittee on Agricultural Labor of the House Committee on Education and Labor and before the Senate Subcommittee on Labor and Public Welfare in September 1971, it seemed that the provisions of Public Law 259, Section 25-B were the most realistic which could be obtained at that time.

In 1970 the AFSC and the National Committee on the Education of Migrant Children, with assistance from the Children's Fund, researched and subsequently published a report on child labor in agriculture as we observed it in California, Oregon, Washington, Ohio and Maine. It was the publication of *Child Labor in Agriculture* which afforded us the opportunity to discuss the situation as we understood it before the two Congressional subcommittees previously mentioned.

The report poignantly documented the presence of children in commercial fields, the dangers to health through pesticides, accidents, the interruption of their educational opportunities and, most important, the economic exploitation of the children—the lack of fringe benefits, working without Social Security numbers, etc. It called attention to the violations of existing protective laws, state and federal. We were pleased when public demand for the report caused us to have a second printing and just this month the small continuing demand has caused us to do a small, third printing.

We were distressed that a major industry in the country felt called upon to ask for injunctions for exemptions under Public Law 259 before the ink was dry on the bill! It is hard to believe that a sizeable segment of a major industry needs to depend on child labor for survival. During the summer of 1974 it is evident that the Department of Labor did not seek actively to enforce the new law, possibly because of the shortness of time elapsing between the bill's passage and the beginning of the major planting, growing and harvesting season in the United States. The lack of enforcement, plus the injunctions, means that here is a law which has never really been tested, let alone implemented.

Congress is now being asked to amend the law in ways that lessen protection of children before we have had a chance to assess its effects or impact.

Since March 1974 this country has slid into a recession, or depression, and this week we see statistics of unemployment going upwards from 8 per cent. There is no shortage of labor in this country. The Philadelphia Inquirer on April 15, 1975 quotes a special report from the Department of Labor which states, "The number of male family heads in the unemployed ranks has doubled since the first quarter of 1974". Indeed, the Green Giant Company of Middleton, Delaware, announced two or three weeks ago that it would employ some 900 unemployed as agricultural workers during their ten weeks harvesting period at $2.35 an hour. Children under 12 are not needed to compete with unemployed adults to do this work.

Children do not need to risk the hazards of accidents, poisoning by pesticides, interrupted education, the loss of their rights to live as children, not as "little adults" in order that commercial agriculture may harvest its crops. There are adults available to do this work.

In Senate 860 it is reported that less than 16 per cent of the harvesters in Oregon are children under 14. If this is really so, then why is an amendment needed? Surely with an unemployment rate of 8 per cent in the state of Oregon, that 16 per cent can be made up from those who are not now employed?

To the argument that children are brought to pick by their parents because they cannot leave them at home, we say that adequate, decent wages and benefits paid to adults will enable the parents to provide other means of child care, as would also adequate child care programs provided from public funds.

To the argument that children under 12 need to have this work to enable them to buy clothes for school, pay for their bicycles or, as stated by Senator Hatfield in the Congressional Record for February 26, 1975, to buy feed for their horses, we say that children have no right to hold these jobs at the expense of decent wages paid to family heads.

Children are needed to work in the fields, it is said, in order that agriculture in our northwest may compete with agricultural products imported from out of the country. This of course is an argument proving that substandard rates are being paid to children. Surely if a $28 billion industry in this country can't find ways of competing with imported agricultural products other than employing children at substandard wages, someone needs to look hard at that industry for other solutions.

Work in the fields for children under 12 teaches the "American way of life" it is said: responsibility, virtue of hard work, earning money for what one personally wants. What do these children learn from being contracted by their families, paid less than adults for adult work, perhaps being hurt or taken sick on the job and discovering that compensation for injury or sickness is not available to them?

It took years in this country to establish social policy in regard to working conditions in industry. We have failed sadly to develop a social policy in regard to agricultural enterprise. The large section of our population involved in the agricultural industry are exploited—ill paid, ill housed, inadequately protected by such things as Social Security, Unemployment Compensation, disability insurance, which the majority of other workers in this country have been able to fight for and to obtain.

The situation of those who work in agriculture is of real concern to the American Friends Service Committee and because of the continuing demand for our 1971 report (*Child Labor in Agriculture* previously referred to in this statement) we have determined to update this study. As of December 1974 the AFSC and the National Committee on the Education of Migrant Children agreed to again cooperate on the new report. Plans for the study are now well underway.

We are aware that the hearings on this subject held in Oregon, Washington and Maine did not provide for the opportunity of much input from people adversely affected by the employment of children to do adult work. It is our hope that Congress will defer action on the Meeds-Hatfield amendments until the results of this study and of other needed research is in hand.

In summary, we find it difficult to comprehend why *this Congress* particularly should consider the amendment of Section 25-B of Public Law 259.

It has not yet been tried.

It is hard to argue for the use of child labor in a depression year when there are heads of families needing work, any kind of work at decent wages which will enable them to feed and cloth their families.

The continuation of child labor in agriculture in the United States will mean the continued denial to children of the right to be children, free of the economic obligation of such hard work.

Continuation of child labor will mean that many children continue to learn at an early age how law can be circumvented.

Continuation of child labor in any section of U.S. agriculture will be a contributing factor to the continuing low wages paid in this major industry.

Public Law 259, Section 25-B should stand as written. It should be enforced. It should not be weakened. It should be strengthened.

Mr. MEEDS. Mr. Chairman, I also have a request. When we had the hearings in Mount Vernon, the chairman will recall that there was testimony with regard to pesticides and the effect of them and a pesticide study was referred to, although it wasn't furnished. I have asked unanimous consent to submit for the record at this point a letter from the person who conducted that study which is referred to.

Mr. FORD. Without objection, it will be so ordered.

[The material referred to follows:]

WASHINGTON STATE UNIVERSITY,
Pullman, Wash., March 7, 1975.

Mr. STEWART BLEDSOE,
Director, Washington State Department of Agriculture,
Olympia, Wash.

DEAR MR. BLEDSOE: Dr. Robert Norton, Superintendent of WSU's Northwestern Research Unit, has informed me that legislators are considering an amendment to the labor law which would permit use of children under the age of 12, to pick strawberries. I understand that some of them are concerned about exposure of children to pesticide residues on the fruit and leaves.

I am not aware of any poisonings of children or adults as a result of pesticide exposure while picking strawberries, nor do I know of any effort to monitor possible harmful effects of this particular activity. However, there is information which should be helpful to legislators in evaluating the hazards involved. It is my view that this information indicates a high probability of safety when pesticides are used in accordance with label directions and the proper intervals between last application and picking are observed.

The pesticides in common use on strawberries in Washington include the fungicides Captan and Benlate, the miticides Plictran, Kelthane and the insecticides Meta-Systox-R, Systox, Guthion, Thiodan and Methoxy-chlor. To date, the only pesticides that have been implicated as a cause of illness among workers in contact with treated foliage are the organo-phosphorus insecticides. Meta-Systox-R, Systox, and Guthion belong to this group, but there are few confirmed illnesses caused by residues of these chemicals on foliage. Nationwide, I estimate better than 90 percent of such illnesses have been caused by one insecticide—parathion. In Washington State parathion has been virtually the only pesticide to have caused such problems, and these were confirmed to workers in tree fruits, mostly in the 1950's. There have been no substantiated illnesses in Washington as a result of working in treated areas since 1961.

In 1973 a research program was initiated by WSU and several State agencies to determine possible effects of Guthion residues on workers thinning apple and peach trees. This type of work was chosen because of the comparatively high potential for exposure to pesticide residues on the foliage. Fruit thinners are constantly exposed to treated leaves which form a canopy about them. As the residues are dislodged you would expect them to settle on the workers and to be inhaled. Thinning is often done with bare hands and workers may wear T-shirts or no shirts at all.

Two groups of workers were carefully monitored for adverse symptoms during routine thinning operations and their blood was periodically checked for reduced enzyme levels which can be reliable indicators of organophosphorus pesticide exposure. One group entered an orchard on the same day the trees were sprayed. Another group entered orchards the next day after spraying but repeated this five times during two weeks of continuous thinning. There were no adverse symptoms related to exposure and enzyme levels in the blood were not lowered more than would be expected in normal day to day variation. It was concluded that a 24 hour interval between application and harvest offers a substantial margin of safety for fruit thinners exposed to foliage residues of Guthion.

While this is not directly applicable to strawberry picking, I believe it represents a situation that is potentially more hazardous. For example, it seems apparent there is greater exposure to treated leaf surfaces in an orchard thinning operation than in strawberry picking. But perhaps most important is the fact that strawberry pickers cannot enter the same day or even the next day after application of any of the organophosphorus insecticides commonly used on strawberries in Washington. Label directions, which are enforced by state and federal agencies, require a waiting period of 21 days for Systox, 14 days for Meta-Systox-R, and 5 days for Guthion before fruit can be harvested. These intervals are required so that residues will not exceed tolerances set by EPA for human consumption. However, they also offer protection for persons picking berries.

For comparison EPA "reentry standards" only require intervals of 2 days for Systox and Meta-Systox-R, and 1 day for Guthion. These intervals apply to any kind of foliage contact work on all crops. The harvest intervals on labels obviously increase this margin of safety considerably.

The State of California has the most extensive pesticide poisoning reporting system in the nation. In the past they have experienced problems on grapes, peaches, and citrus—nearly all caused by parathion. During the past three years in which they have enforced specified reentry intervals for these crops they have reported very few illnesses. For some, as yet unexplained reason, most poisonings due to contact with treated foliage have occurred in California. Whatever, the reason, I believe it is significant that none have been reported in strawberry fields from that state.

It is certainly probable that children are more susceptible to poisoning by pesticides or any other toxic material simply because toxicity is a function of size. However, I don't believe this is of great significance in this case because of the apparent low risk involved. Also, I think it is important to note that tolerances, which determine the interval between application and harvest, are based on animal feeding studies which generally incorporate a 100 fold safety factor. This safety factor is intended to compensate for possible differences in susceptibility between humans and animals, and differences among humans such as age and condition of health.

I hope this information will be helpful. I would be glad to discuss it in more detail if you find this necessary.

Sincerely,

RICHARD MAXWELL, DV

Mr. FORD. The hearing will be adjourned now for the purposes of considering the markup of this bill.

[Whereupon, at 1:30 p.m. o'clock, the committee adjourned.]

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